

The background of the entire page is a photograph of a rocky beach. In the foreground, there are many small, smooth, light-colored pebbles and stones. A white, foamy wave is crashing against the shore, creating a white line of surf that runs diagonally from the bottom left towards the center. The water is a light blue-grey color, and the sky is not visible.

Town of Southampton Water Protection Plan

DRAFT February 2015

**Prepared by the Urban Harbors Institute,
University of Massachusetts Boston**

Town of Southampton Water Protection Plan

DRAFT February 2015

Prepared on behalf of:
Town of Southampton, NY

Prepared by:
Urban Harbors Institute
University of Massachusetts, Boston
100 Morrissey Boulevard
Boston, MA 02125
617-287-5570
Urban.Harbors@umb.edu

Table of Contentsi

SOUTHAMPTON WATER PROTECTION PLAN.....	1
PART ONE:.....	1
ACTION PLAN	1
INTRODUCTION.....	2
PURPOSE OF THE PLAN	2
A TOWN, STATE, FEDERAL PARTNERSHIP	3
CONTENT OF THE PLAN.....	4
SECTION 1: PROPOSED BOUNDARY.....	7
BOUNDARY PURPOSE.....	7
CRITERIA FOR BOUNDARY DELINEATION.....	10
BOUNDARY DESCRIPTION	13
A PROPOSED BOUNDARY	15
SECTION 2: LOCAL POLICIES AND IMPLEMENTATION TECHNIQUES	22
DEVELOPMENT AND LAND USE.....	24
HISTORIC AND CULTURAL RESOURCES.....	34
SCENIC RESOURCES	46
FLOODING, EROSION, AND SEA LEVEL RISE	55
WATER QUALITY	70
ECOSYSTEM AND NATURAL RESOURCES.....	93
AIR QUALITY	108
SOLID WASTE AND HAZARDOUS SUBSTANCES AND WASTE	111
PUBLIC ACCESS AND RECREATION	114
WATER-DEPENDENT USES AND THE SUSTAINABLE USE OF LIVING MARINE RESOURCES..	122
AGRICULTURE.....	136
ENERGY AND MINERAL RESOURCES.....	142
SECTION 3: PROPOSED LOCAL CONSISTENCY LAW.....	145
SOUTHAMPTON CONSISTENCY REVIEW LAW	145
SECTION 4:	154
GUIDELINES FOR NOTIFICATION AND REVIEW	154
PROCEDURAL GUIDELINES FOR COORDINATING NYS DEPARTMENT OF STATE (DOS) AND LWRP CONSISTENCY REVIEW OF FEDERAL AGENCY ACTIONS.....	157
SECTION 5: A SUMMARY OF STATE AND FEDERAL ACTIONS LIKELY TO AFFECT PLAN IMPLEMENTA-TION.....	161
STATE AND FEDERAL ACTIONS LIKELY TO AFFECT PLAN IMPLEMENTATION.....	162

PART TWO: BACKGROUND & SUPPORTING MATERIAL	183
INVENTORY OF RESOURCES AND ANALYSIS OF ISSUES.....	184
INVENTORY AND ANALYSIS: A SUMMARY	184
DEVELOPMENT AND LAND USE.....	186
HISTORIC AND CULTURAL RESOURCES.....	193
SCENIC RESOURCES	200
FLOODING, EROSION, AND SEA LEVEL RISE	212
WATER QUALITY AND QUANTITY	221
ECOSYSTEM AND NATURAL RESOURCES.....	234
PUBLIC ACCESS AND RECREATION	247
WATER DEPENDENT USES AND THE SUSTAINABLE USE OF LIVING MARINE RESOURCES ..	252
AGRICULTURE.....	266
WATER QUALITY IMPROVEMENT STRATEGIES.....	268
WATERSHED OVERVIEW	270
WATER QUALITY ISSUES	273
HARBOR PLANS	291
JURISDICTION AND MANAGING AUTHORITIES:.....	291
SOUTHAMPTON HARBOR MANAGEMENT AUTHORITIES.....	292
MANAGEMENT OF THE HARBORS IN THE TOWN OF SOUTHAMPTON	293
HARBOR PLANS FOR INDIVIDUAL EMBAYMENTS	293
REEVES BAY	295
FLANDERS BAY	300
GREAT PECONIC BAY.....	302
LITTLE PECONIC BAY	311
NOYAC BAY	319
SAG HARBOR.....	326
MORICHES BAY	327
QUANTUCK BAY	333
SHINNECOCK BAY	338
SHINNECOCK CANAL.....	347
MECOX BAY	351
SAGAPONACK LAKE	356

List of Figures

Figure 1: Southampton Water Protection Boundary	8
Figure 2: New York Coastal Management Program Boundary	11
Figure 3: Major Surface Watersheds	16
Figure 4: Surface Watersheds	17
Figure 5: Significant Coastal Fish and Wildlife Habitats	18
Figure 6: New Atlantic Ecological Marine Units	19
Figure 7: Agricultural Lands	20
Figure 8: Land Use	25
Figure 9: Land Cover from 2006 National Land Cover Database	26
Figure 10: Zoning	27
Figure 11: Hardened Shorelines on the South Shore	57
Figure 12: FEMA Flood Zones & SLOSH Zones	59
Figure 13: Major Surface Watersheds (A larger version of this map is available in Figure 3.)	71
Figure 14: Surface Watersheds (A larger version of this map is available in Figure 4.)	71
Figure 15: Land Use	187
Figure 16: Land Cover from 2006 National Land Cover Database	188
Figure 17: Zoning	191
Figure 18: Scenic Routes/Vistas & Protected Lands	204
Figure 19: Scenic Roads East	205
Figure 20: Scenic Roads West	206
Figure 21: Significance Eastern Boundary	208
Figure 22: Scenic Rankings - Eastern Bays	209
Figure 16: Prominent Visual Features – Eastern Bays	210
Figure 24: Hardened Shorelines on the South Shore	214
Figure 25: FEMA Flood Zones & SLOSH Zones	216
Figure 26: Major Surface Watersheds	223
Figure 27: Surface Watersheds	224
Figure 28: Water Quality-Related Designations	226
Figure 22: Wetlands	239
Figure 30: Trustee Land & Public Open Space	248
Figure 31: Water Dependent Uses, Access Sites & Navigation	253
Figure 32: Shellfish Closure Areas	260
Figure 33: Aquaculture lease sites overlaying the Suffolk County Shellfish Cultivation Zone	262
Figure 34: Aquaculture Lease Status Map	262
Figure 35: Major Surface Watersheds (A larger version of this map is available in Figure 3.)	Error! Bookmark not defined.
Figure 36: Surface Watersheds (A larger version of this map is available in Figure 4.)	Error! Bookmark not defined.
Figure 37: Harbor Management Boundaries	294
Figure 38: Flanders and Reeves Bays Human Uses	297
Figure 39: Flanders and Reeves Bays Managed Areas	298

Figure 40: Flanders and Reeves Bays Natural Resources	299
Figure 41: Great Peconic Bay Human Uses	308
Figure 42: Great Peconic Bay Managed Areas	309
Figure 43: Great Peconic Bay Natural Resources	310
Figure 44: Little Peconic Bay Human Uses	316
Figure 45: Little Peconic Bay Managed Areas	317
Figure 46: Little Peconic Bay Natural Resources	318
Figure 47: Noyac Bay Human Uses	323
Figure 48: Noyac Bay Managed Areas	324
Figure 49: Noyac Bay Natural Resources	325
Figure 50: Moriches Bay Human Uses	330
Figure 51: Moriches Bay Managed Areas	331
Figure 52: Moriches Bay Natural Resources	332
Figure 53: Quantuck Bay Human Uses	335
Figure 54: Quantuck Bay Managed Areas	336
Figure 55: Quantuck Bay Natural	337
Figure 56: Shinnecock Bay East Human Uses	341
Figure 57: Shinnecock Bay West Human Uses	342
Figure 58: Shinnecock Bay East Managed Areas	343
Figure 59: : Shinnecock Bay West Managed Areas (Map in development)	343
Figure 60: Shinnecock Bay East Natural Resources	344
Figure 61: Shinnecock Bay West Natural	346
Figure 62: Shinnecock Canal Human Uses	348
Figure 63: Shinnecock Canal Managed Areas	349
Figure 64: Shinnecock Canal Natural Resources	350
Figure 65: Mecox Bay Human Uses	353
Figure 66: Mecox Bay Managed Areas	354
Figure 67: Mecox Bay Natural Resources	355
Figure 68: Sagaponack Lake Human Uses	357
Figure 69: Sagaponack Lake Managed Areas	358
Figure 70: Sagaponack Lake Natural Resources	359



SOUTHAMPTON WATER PROTECTION PLAN PART ONE: ACTION PLAN

INTRODUCTION

The waters and waterfront area of the Town of Southampton have defined the character of the Town since its founding. The shoreline areas; the barrier islands; and the waters of the Atlantic Ocean, Peconic Bay, and the south shore bays; as well as the streams and fresh water ponds, have provided the Town with extensive and diverse resources and opportunities. The waters, wetlands, beaches, soils, climate — indeed the entire natural landscape — and the human settlement pattern as it evolved over nearly four centuries, have all been a basis of the Town's quality of life and economy throughout its history. These resources, and the ways in which the community has used and husbanded them over time, have continuously set the stage for the Town's future.

PURPOSE OF THE PLAN

The purpose of the Southampton Water Protection Plan (SWPP) is to reflect and guide how the Town is now managing, and will manage in the future, the use and protection of the waters of the Town, the waterfront area, and the associated resources. The scope of the Plan recognizes the complexity and diversity of the resources and uses that define the waterfront area:

- the fish and wildlife and the ecosystems on which they depend
- the salt, brackish and fresh waters, both on the surface and in the groundwater, and their quality and physical character;
- the beaches, dunes, and bluffs and the processes that continually reshape them;
- the agricultural lands and the farmers and economic conditions necessary to make them productive;
- the landforms and landscapes and how they contribute to the visual enjoyment of residents and visitors;
- the boating, swimming, and general public access to the water and the infrastructure they require;
- the commercial and recreational fishing and shellfishing and the health of the fisheries on which they depend;
- the historic and archeological resources that contribute to an understanding of the past; and
- the pattern of development, commercial, residential, and open space, and how it will change in response to natural hazards and population growth.

These are all addressed by the Southampton Water Protection Plan.

In addressing these resources and uses the Plan recognizes that while there is much commonality throughout the Town, the resources and uses vary from place to place and as such, place-specific differences are considered. The interrelationships among all of these resources and uses are complex and significant and are considered in addressing any one resource or use.

The Plan is based on a broad understanding of what is known currently—scientific, cultural, and economic knowledge—and recognizes that management of these resources and uses must be adaptable to changing circumstances and information; and, at the same time, management must provide clear

direction and lead to measurable progress. Most importantly the Southampton Water Protection Plan is intended to reflect, as much as possible, a consensus among all those who have a stake in the use and protection of the waters and waterfront resources of the Town.

A TOWN, STATE, FEDERAL PARTNERSHIP

The Southampton Water Protection Plan is designed as a management program primarily intended for use by the Town, New York State, and the federal governments. The Program is ultimately a partnership among the three levels of government in coastal and waterfront management.

The Coastal Zone Management Act (CZMA) of 1972 defines the federal role in this partnership. The CZMA establishes general policies for the use and protection of the nation's coastal resources. It provides support to states to prepare state-specific enforceable coastal zone management programs that refine the general policies of the CZMA to meet the circumstances and priorities of each respective state. Most importantly, the CZMA requires that, once the federal government has approved a state's coastal management program, future federal activities, permits, funding, and direct actions, must be consistent with each state's program; and, for the most part, CZMA provides for the state to decide whether a federal activity is consistent with the state's program. This is a unique and powerful tool that the federal government has given to the states to control federal activities affecting coastal uses and resources. The process is generally referred to as the "federal consistency" requirement. (For further information on the federal consistency process in New York, visit the Department of State web site at <http://www.dos.ny.gov/opd/programs/consistency/federal.html>.)

In 1981, the federal government approved the New York State Coastal Management Program. The State's program presently contains 44 coastal policies that guide the management of the State's coastal area. The State's coastal policies are implemented by numerous specific State laws that address one or more of the uses and resources that characterize the State's coastal area, *e.g.*, the Tidal Wetlands Act, the Coastal Erosion Hazards Area Act, or the Public Lands Law. In addition to these laws, the New York Coastal Management Program is implemented by the Waterfront Revitalization of Coastal Areas and Inland Waterways Act, Article 42 of the Executive Law. This act establishes the New York State Department of State as the State's coastal management agency responsible for reviewing federal activities for consistency with the State's coastal policies. Under the Act, State agency actions are also required to be consistent with the State's coastal policies.

The Waterfront Revitalization of Coastal Areas and Inland Waterways Act also creates the Local Waterfront Revitalization Program (LWRP), providing a pathway for the Southampton Water Protection Plan to become a Local Waterfront Revitalization Program. Just as the federal CZMA requires federal activities to be consistent with an approved state coastal management program, Article 42 of the Executive law requires that State agency actions be consistent with an approved Local Waterfront Revitalization Program. The Southampton Water Protection Plan is eligible for such approval, should the Town choose to submit for approval. When a local government in New York State has an approved local waterfront program, that program is submitted by New York State to the federal government as a revision to the State's federally approved coastal management program and effectively becomes the State's coastal management program within the jurisdiction of that local government. The local program then provides the basis for determining the consistency of federal activities within that local government's jurisdiction.

Finally, to complete this partnership the Southampton Water Protection Plan describes a local process for assuring that Town government activities are undertaken in a manner consistent with the Plan and describes the process by which the Town will participate in, and shape, the determination of federal and State agency consistency decisions affecting the Town of Southampton. This process can be a powerful

tool, not only for coordinating the multiple public decisions that affect the uses and resources of the Southampton waters and waterfront, but more importantly to assure that those decisions reflect the values and objectives of the Town as set forth in this document.

CONTENT OF THE PLAN

The Southampton Water Protection Plan is comprised of seven principle sections:

- 1) Boundary;
- 2) Inventory of Resources and Analysis of the Issues;
- 3) Policies and Their Implementation;
- 4) A Proposed Local Consistency Law;
- 5) A Summary of Water Quality Issues and Management Options;
- 6) Harbor Management Plans; and
- 7) A Summary of State and Federal Actions Likely to Affect Plan Implementation.

These sections are organized into two parts: Part I is the Plan to be implemented, the elements that provide the policies that guide all decisions; recommended revisions to laws and regulations, programmatic initiatives, projects, and capital investments that will advance the plan's policies; and a description of the roles, responsibilities and review processes for coordinated and consistent implementation at all levels of government.

Part II contains those sections that provide background information about the natural and built environment and human uses of the area covered by the Plan and support for the Plan's proposal. It includes a comprehensive section on the Town's surface and groundwater resources, which aggregates information, issues and recommendations into an overall strategy for furthering the Town's efforts to address water quality problems.

Part I

Section 1, *Boundary*, describes the primary geographic area of the Town to which the Southampton Water Protection Plan applies.

Section 2, *Local Policies and Their Implementation*, states the policies and standards that the Town has established to address the issues identified and that need to be adhered to locally and by State, and federal agencies in order to protect the water and waterfront uses and resources. These policies, consistent with general New York State Coastal Policies, capture, in most instances, policies that the Town has previously established in its plans and local laws. Each policy is followed by a description of the legislative or administrative means the Town will use to implement the Southampton Water Protection Plan. These means include 1) the existing Town laws that manage water and waterfront uses and resources, and 2) new or revised local laws identified during the development of the Plan as necessary to better manage uses and resources based on the policy direction the Town set forth above.

Also included in the implementation portion of this section are various projects—both on-the-ground development and scientific research and studies—that will further the policies adopted as part of this Plan.

Section 3, *Proposed Local Consistency Law*, provides a recommendation for language in a Local Law whereby the Town, State and federal agencies would coordinate their decisions so that they are

undertaken in a manner that implements the policies. This further defines the process under which the Town will review proposed actions by State and federal agencies to ensure consistency with the policies defined by the Town in the Southampton Water Protection Plan.

Section 4, *Guidelines for Notification and Review* will be used by state agencies to assist in (a) determining the consistency of certain state agency actions with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs); (b) providing timely notice to the local government of certain impending actions; by local governments in carrying out their review responsibilities in a timely manner; and by the Secretary of State in resolving conflicts between local and state governments.

Section 5, *State and Federal Programs Likely to Affect Implementation*, describes the activities of the federal and State government that must be carried out in a manner consistent with Southampton Policies described in Section 3, should the Southampton Water Protection Plan ultimately be submitted and approved as a Local Waterfront Revitalization Program.

Part II

Section 1, *Inventory of Resources and Analysis of the Issues*, summarizes what is known about the waters and waterfront uses and resources within the Town. The section is based on existing Town reports, studies and plans, the reports and studies of other public agencies, academic studies, public comments, and interviews with public officials and local organizations. References or links to these documents are included whenever possible. This section also identifies the key issues that need to be addressed to assure that decisions affecting the uses and resources of the waters and waterfront advance their long-term protection. The section is organized around topics associated with the policies described in section 2 of Part 1, Policies and Their Implementation.

Section 2, *Water Quality Improvement Strategies*, summarizes the resources and options related to Water Quality within the Town. These topics are discussed throughout the Plan but, because of their paramount importance to the Town, they were brought together in one location in the Plan to allow consideration in a more comprehensive manner.

Section 3, *Harbor Plans*, summarizes the resources and issues related to the water and waterfront areas within the harbors, bays and embayments of the Town.

In addition to the Southampton Water Protection Plan as described above, other documents have been prepared as part of the development of the Plan. These include a description of the public process followed in the development of the Plan, documents necessary to comply with the State Environmental Quality Review Act (SEQRA), and the full text of local laws, or local law amendments, drafted to implement the Plan.



SECTION 1: PROPOSED BOUNDARY

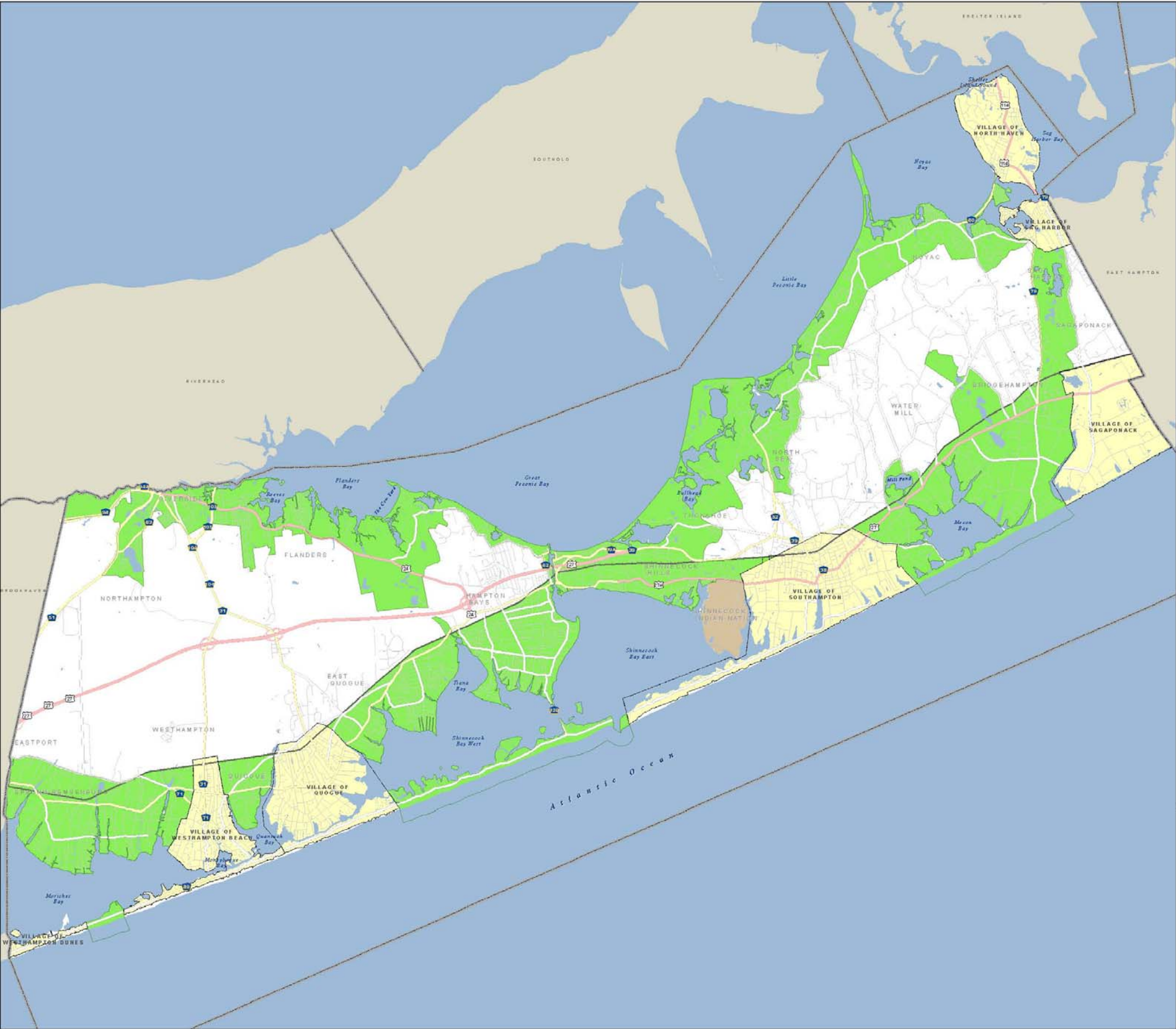
BOUNDARY PURPOSE

As stated in the Introduction, the Town of Southampton Water Protection Plan¹ is being prepared both 1) as a tool for the Town of Southampton to improve its management of the water and waterfront resources of the Town and 2) to be potentially part of a federal, State, and local coastal management partnership created by the federal Coastal Zone Management Act and the New York State Waterfront Revitalization of Coastal Areas and Inland Waterways Act. This partnership is designed to improve and coordinate the decision making of these three levels of government to better manage the protection and use of coastal resources. To achieve this, the Program will set policies for the use and protection of the waters, waterfront and coastal resources of the Town of Southampton to be followed by the Federal, State and Town of Southampton governments. The Program and its policies only apply to the decisions of a federal, State, or Town of Southampton agency decisions. The Program and its policies do not apply to the decisions of Suffolk County, the villages that lie within the Town, or local agencies outside the control of the Town Board, such as the Board of Trustees, or the Shinnecock Nation. Agreements for cooperation with the villages, County, or Trustees may be established. The Village of Sag Harbor has adopted its own separate LWRP.

The geographic focus of Southampton's Water Protection Plan is primarily the area encompassing the Town's coastal waters, waterfront, and coastal resources, as shown in Figure 1. These resources include, but are not limited to, fishable, swimmable and potable waters; beaches; dunes; wetlands; fish and wildlife habitats; highly productive agricultural soils; scenic landscapes; and historic and cultural resources associated with life along the coast. Relevant uses and activities include, but are not limited to, commercial fishing; agriculture; marinas and boatyards, boating, swimming, and other water related activities; enjoyment and appreciation of coastal scenic and cultural resources; tourism; year-round and seasonal dwellings located in or affected by a coastal setting; and other uses and infrastructure on which the previous uses and activities depend. These resources, uses, and activities are identified more fully and analyzed in the following Inventory and Analysis section.

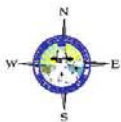
¹ The Southampton Water Protection Plan is being developed pursuant to the provisions of the State's Local Waterfront Revitalization Program (LWRP). It will serve the same function, and have the same legal authority, as an LWRP, but has environmental protection as its core goal, rather than waterfront revitalization or redevelopment.

Figure 1: Southampton Water Protection Boundary



TOWN OF SOUTHAMPTON
Suffolk County, New York
Water Protection Plan


**SOUTHAMPTON WATER
PROTECTION BOUNDARY**



Prepared By:
The Town of Southampton Division
of Geographic Information Systems
Date: 8/25/2014
MAP ID: 2477

0 2 4
Miles

Map Symbols

 Water Protection Boundary

Suffolk County Real Property Tax Service
COPYRIGHT 2014, COUNTY OF SUFFOLK, N.Y.
Real Property Taxmap parcel line work used with permission of
Suffolk County Real Property Tax Service Agency (R.P.T.S.A.)

This Cartographic rendering is a DRAFT MAP excepted from
the provisions of the Freedom of Information Law (F.O.I.L.)
[Public Officers Law Article 6 Section 84-90] by section 87.2.g
in that:

1. The data displayed is an interagency or intra agency draft
produced for the purpose of identifying and correcting data.
2. It is not a final agency determination.
3. It is not a statistical or factual compilation of data.4. In some cases
correct data has been left out and questionable
or inaccurate data has been exaggerated to help identify errors.
In short this is a DRAFT MAP produced in cooperation with the
Data sources listed in an effort to aid in the correction of data
and is not held out as being complete or accurate in any way.

A secondary focus of the Water Protection Plan is the area where decisions of the federal, State and Town governments can affect Southampton's coastal resources and uses. This varies with the location and extent of the resource or use and may at times occur beyond the resource or use itself and even beyond the boundaries of the Town of Southampton. However, most decisions will occur at or near the resource or use, and will be concentrated along or near the land or water side of the Town of Southampton shoreline. It is this area where there is a clear interrelationship between land and water uses, and between these uses and coastal resources, that is mapped as part of this Plan—*i.e.*, the area within the Water Protection Plan Boundary.

CRITERIA FOR BOUNDARY DELINEATION

Under the federal Coastal Zone Management Program, in 1982, New York State identified the boundary of the coastal zone of New York State that is subject to the New York Coastal Management Program. Figure 2, below, shows the New York Coastal Management Boundary area within the Town of Southampton. The criteria used to establish this boundary are detailed in the State of New York Coastal Management Program and Final Environmental Impact Statement (August 1982)² and include:

- “Conform with the nearest cultural feature or political boundary,” — cultural features such as, roads, railroads, utility rights of way, or political boundaries are used for ease of identification of the onshore boundary;
- “Include all land and waters uses directly impacting coastal waters.....Such impact is defined as that which changes the physical, chemical, biological, littoral, or aesthetic characteristics or the socio-economic values of coastal waters to the extent that the character, use or availability of its resources and/or the environmental quality standards of the coastal waters are so adversely affected that they can only be maintained or restored at high cost to society;” and
- Inclusion of areas subject to coastal flooding, agricultural lands, parks, viewsheds, energy facilities, and water dependent uses.

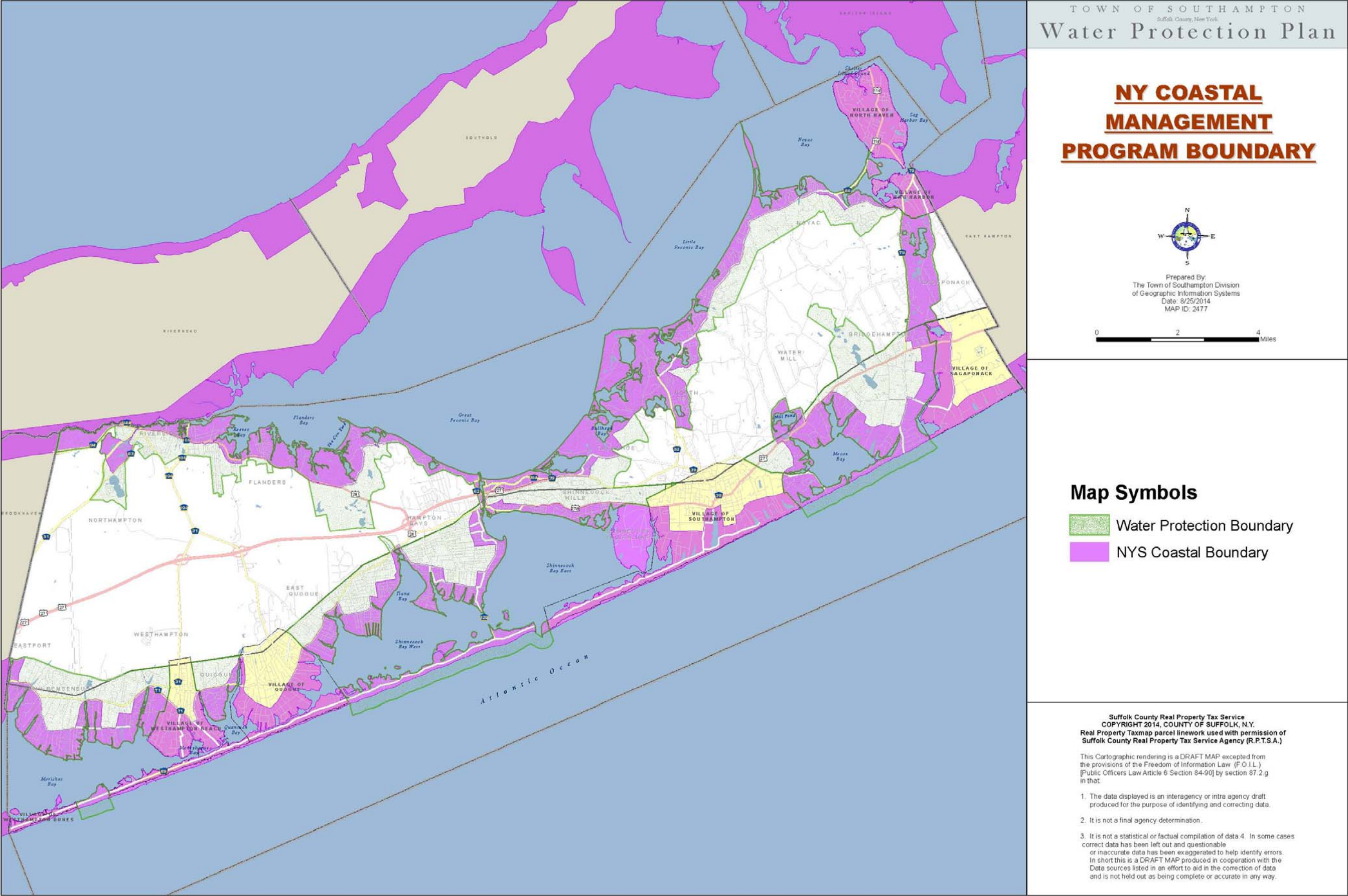
This existing coastal area boundary line was based on a boundary drafted by the Long Island Regional Planning Board in the 1970s.

More recently it has been amended by the State to include more inland areas that are part of identified Significant Coastal Fish and Wildlife Habitats. The boundary has not been amended to reflect revised flood plain maps; areas identified as likely to be affected by coastal storms or projected increases in sea level; changes in land use; nor the increased development since the 1970s. The existing coastal area boundary also does not reflect potential new development or the effects of that development on the water quality in the coastal ponds and bays through surface water runoff and ground water flow.

It is proposed that the boundary for the Town of Southampton Plan modify the State's coastal area boundary to include: 1) all areas likely to be affected by future flooding and coastal storms; and 2) areas within the coastal sub-basin watersheds where the density of development, particularly development that has occurred since the coastal area boundary was first drafted in the 1970s, and the development's proximity to coastal ponds and bays indicate that measures to improve water quality may be required that are not necessary for the entire watershed. Cultural features, such as roads, railroads, or political or existing regulatory lines will be used to assure that the location of the boundary is readily apparent. Incorporated villages are excluded from the area encompassed by the boundary

² Office of Coastal Zone Management National Oceanic and Atmospheric Administration and NY Department of State. 1982. New York State Coastal Management Program and Final Environmental Impact Statement. Online at: http://www.dos.ny.gov/opd/programs/pdfs/NY_CMP.pdf. See pages II-3-1 to II-3-7.

Figure 2: New York Coastal Management Program Boundary



BOUNDARY DESCRIPTION

The boundary descriptions provided below are shown on Figure 1.

Landward Boundary West of Shinnecock Canal

The proposed landward working boundary is generally described as follows:

Beginning at the Town of Brookhaven line at County Route 71 easterly along County Route 71 to its intersection with the Long Island Railroad (LIRR), then along the right of way of the LIRR easterly to Newtown Road, then northerly and westerly along Newtown Road to Red Creek Road, then northerly and westerly along Red Creek Road to Woodview Road, then southerly along Woodview Road to Red Creek Circle, then westerly along Red Creek Circle to Hildreth Road, then northerly on Hildreth Road to Red Creek Road, then westerly along Red Creek Road/Lower Red Creek Road to Flanders Road (Route 24), then along Flanders Road to Townsend Ave., then southerly along Townsend Ave., then westerly parallel to Flanders Road to Huntington Lane, then northerly along Huntington Lane to Flanders Road to Oak Ave., then southerly along Oak Ave. to Silverbrook Drive, then westerly along Silverbrook Drive to Cypress Drive, then northerly on Cypress Ave. to Flanders Road, then westerly to Bell Ave., then southerly along Bell Ave. to Port St., then westerly on Port St. to Stern Ave., then southerly along Stern Ave. to its end, then westerly along a line, crossing County Rd 105 (Cross River Drive), then southwestly to a point on County Road south of its intersection with Old Quogue Road, then northerly along Old Quogue Road to Flanders Road, to Woodhill Ave. at the rotary, then southerly on Woodhill Ave. to Pegs Lane then easterly on Pegs Lane to County Route 63, then southerly on County Route 63 to Lakeview Drive to Topping Drive, then southerly on Old Westhampton Road to a point south of Wildwood Lake, then westerly to County Route 51, then northerly on County Route 51, then continuing northerly to Route 24 (County Route 94), then westerly along County Route 94 to the Town of Brookhaven line.

Landward Boundary East of Shinnecock Canal

Beginning at the intersection of North Shore Road and the Long Island Railroad (LIRR) easterly along the right of way of the LIRR to Head of Pond Road, then northerly on Head of Pond Road to Deerfield Road, then southerly on Deerfield Road to the LIRR right of way then easterly to County Route 79, then northerly along Route 79 to Fordham St., then northerly on Fordham St. to Brick Kiln Road, then westerly on Brick Kiln Road to Stoney Hill Road, then northerly on Stoney Hill Road to the northern extent of the CR200 zoning district, then along the northern boundary of the CR200 zoning district to Majors Path, then southerly on Majors Path to North Sea Mecox Road, then westerly on North Sea Mecox Road to County Road 38, then northerly on County Road 38 to Big Fresh Pond Road, then westerly on Big Fresh Pond to Millstone Brook Road, then westerly on Millstone Brook Road to Country Club Drive, then southerly on Country Club Drive/N Magee St. to Whites Lane to Sebonac Inlet Road, then southerly and easterly to Sebonac Road, then easterly on Sebonac Road to Tuckahoe Road, then Southerly on Tuckahoe Road to the right of way of the LIRR.

Seaward Boundary

The seaward boundary of the Southampton Water Protection Plan is the Town boundary in the Peconic Bay and a line extending seaward 1500 feet from the high tide line of the Town's Atlantic Ocean

shoreline³. Excluded from the seaward boundary are areas within incorporated villages plus up to 1500 feet seaward of any village shoreline.

Areas Outside of the Town's Waterfront Boundary

Other areas are important to the management of the Town's coastal resources and uses which may or may not be included in, or influence, the final boundary, but activities that occur in these areas may still affect the use and protection of the resources of the Town's waters and waterfront. The Coastal Management Program provides that activities "... in or outside the coastal zone affecting any land or water use or natural resource of the coastal zone..."⁴ be consistent with the State's coastal policies or those of an approved local government coastal management program. Areas outside the draft boundary, where activities may affect the resources or uses within it, include:

- The watersheds of the Town's coastal ponds and bays. Achieving water quality objectives for the Town's marine waters cannot be done without improved management of activities throughout the watersheds. Figures 3 and 4 depict the major watersheds ("Major Surface Watersheds") and the smaller sub-watersheds ("Surface Watersheds") which drain to the Town's bays and coastal ponds, including areas within villages or adjoining towns. The final boundary for the Southampton Program may consist of two tiers, the boundary as described above and, for water quality purposes, the watersheds of the coastal embayments—which would include the entire Town.
- Significant Coastal Fish and Wildlife Habitats (SCFWH) identified throughout the State's coastal area, and depicted on Figure 5, below. There are more than a dozen such habitats that are wholly or partly located within the Town of Southampton. In order to protect these significant habitats, the State has prepared an assessment—for each of these habitats—of activities that may or would affect their health. These habitats are valued natural and commercial resources of the Town. As part of the development of the Southampton Water Protection Plan, the Town has recognized these areas as significant and has identified implementation measures that apply to all parts of the Town's Significant Coastal Fish and Wildlife Habitats.
- Activities in, and the resources of, the ocean. The commercial fishing fleet at Shinnecock, as well as recreational fishing activity that occurs throughout the Town's marine waters, depend upon the health of a variety of species that, in turn, depend upon the health of the ocean ecosystem extending from the nearshore waters to hundreds of miles beyond the Town. Energy development in the ocean waters also may affect the waterfront resources and uses of the Town. Figure 6 depicts an area where activities may affect the Southampton Water Protection Plan as well as an area where activities in Southampton may have an effect because of the interrelationship between nearshore habitats and the health of the ocean ecosystem.
- Scenic landscapes or important viewsheds identified through the inventory and analysis phase of this project, but that extend beyond the draft working boundary and warrant being included in a revised boundary.
- Agricultural lands. Agriculture is an important element of the Town's economy: and, to the extent important agriculture exists within the boundary, State coastal policy calls for its protection. However, the State's coastal policy also recognizes that preserving coastal agricultural activities requires a recognition that it is not only the land that needs to be protected but the local

³ Municipalities have extraterritorial jurisdiction over an area 1500 feet seaward of their boundary. See Town Law, Section 130, Navigation Law, Section 46A and Executive Law, Section 922.

⁴ CZMA, 16 U.S.C. section 1456, section 307 (c)(1)(A).

agricultural economy which requires a critical mass of agriculture and supportive agri-businesses to prosper. Therefore, while the boundary may not encompass all the important agricultural land in the Town, all Town, State and federal activities must consider their effects on the agricultural economy of the Town, the South Fork, or the East End. Figure 7 depicts the areas currently in agriculture, both within and outside of, the proposed boundary.

Other factors that will influence the final boundary determination include areas where the present and historic coastal character of the community is evident, such as concentrations of seasonal homes and tourist services and accommodations, and historic resources. Newer estimates regarding the extent of flood plains, sea level rise, and storm surges may also result in changes to the working boundary.

A PROPOSED BOUNDARY

The boundary described above is a “proposed boundary” for the Southampton Water Protection Plan. As the planning process is completed, it is expected that this boundary may be modified in places to better reflect:

- public input on the boundary;
- additional information developed as part of the process and development of management options;
- the potential for influences of activities outside of the boundary; and
- the potential incorporation of various overlying management schemes.

Figure 3: Major Surface Watersheds

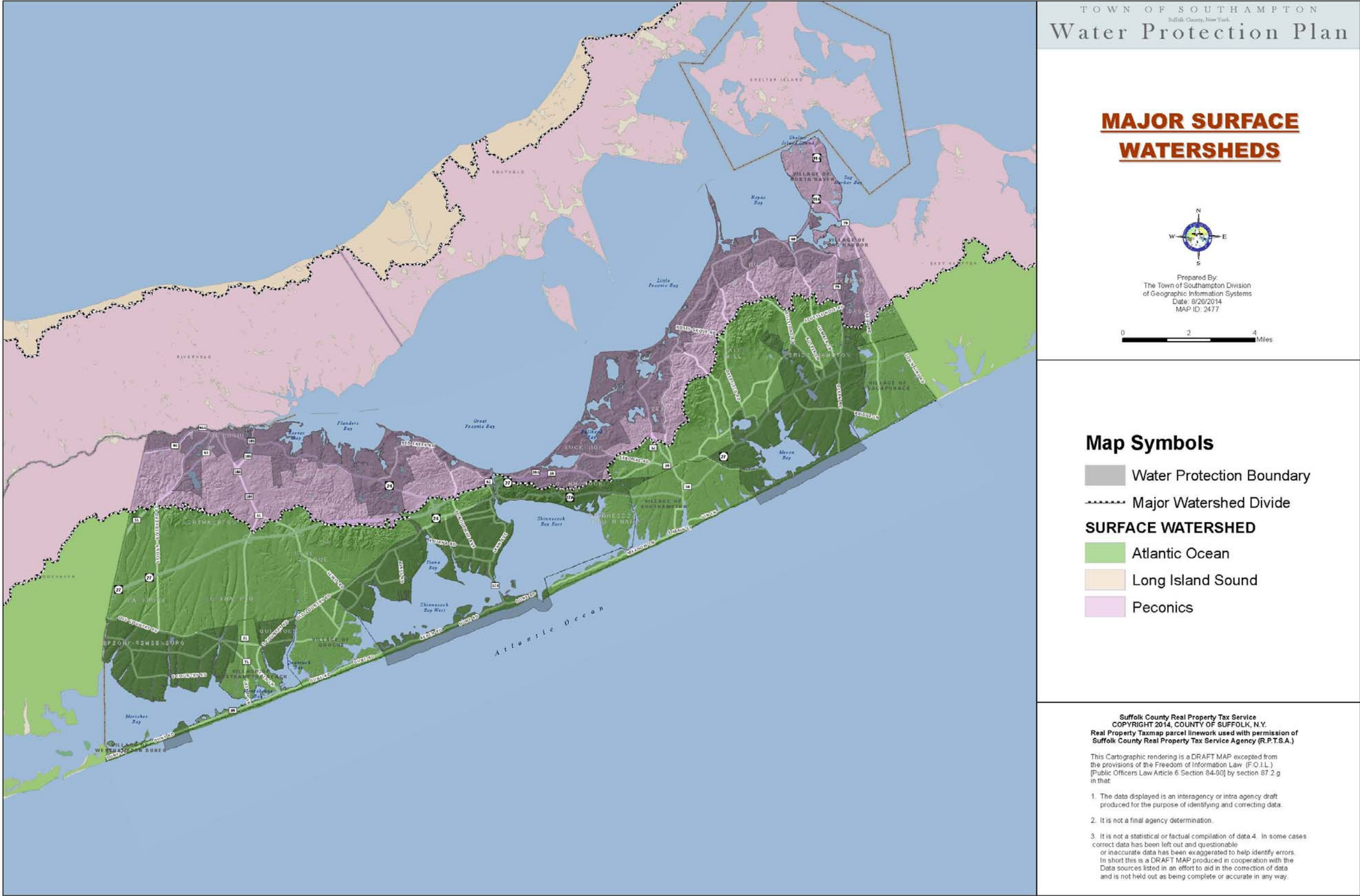


Figure 4: Surface Watersheds

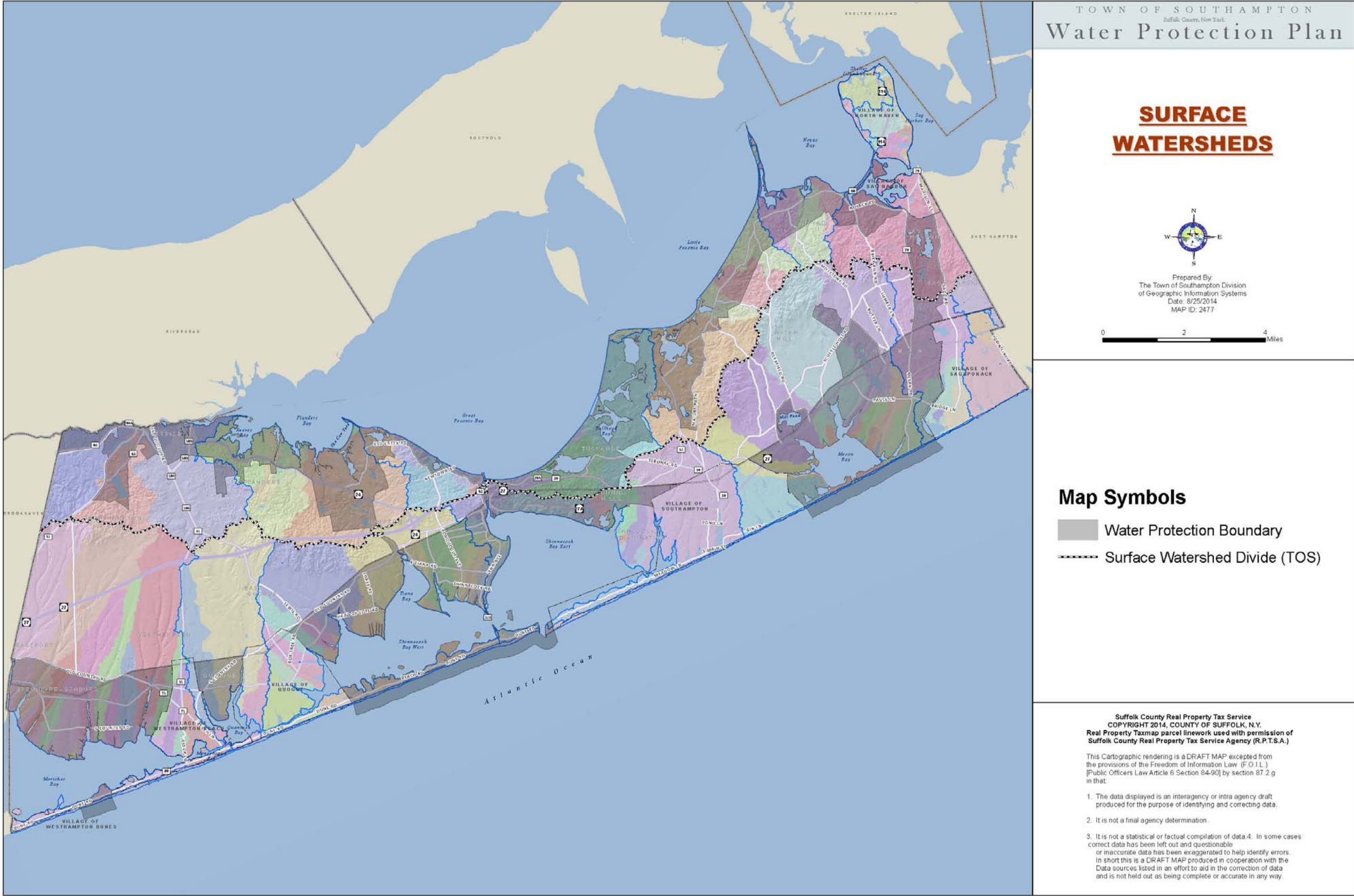


Figure 5: Significant Coastal Fish and Wildlife Habitats

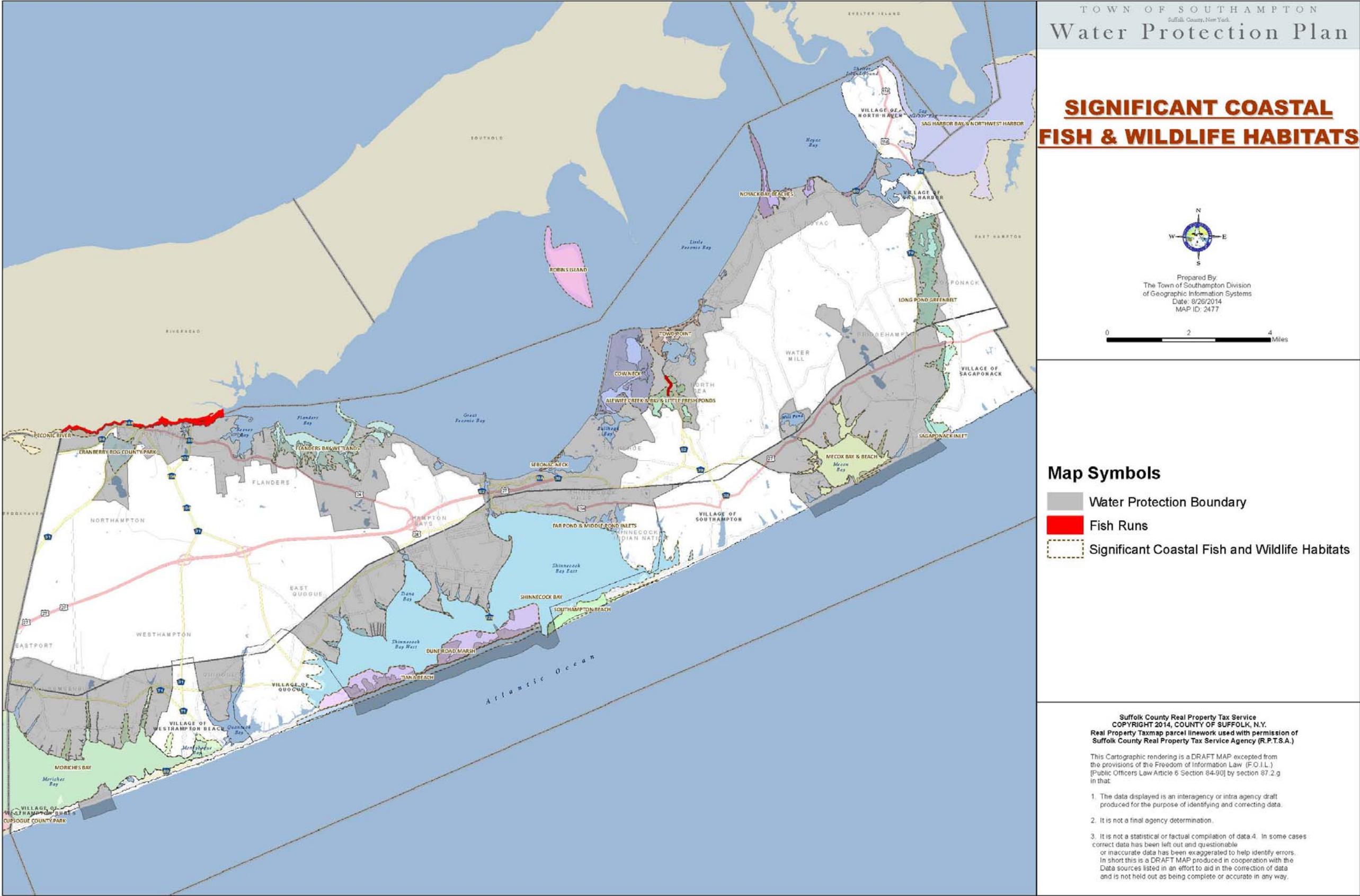


Figure 6: New Atlantic Ecological Marine Units

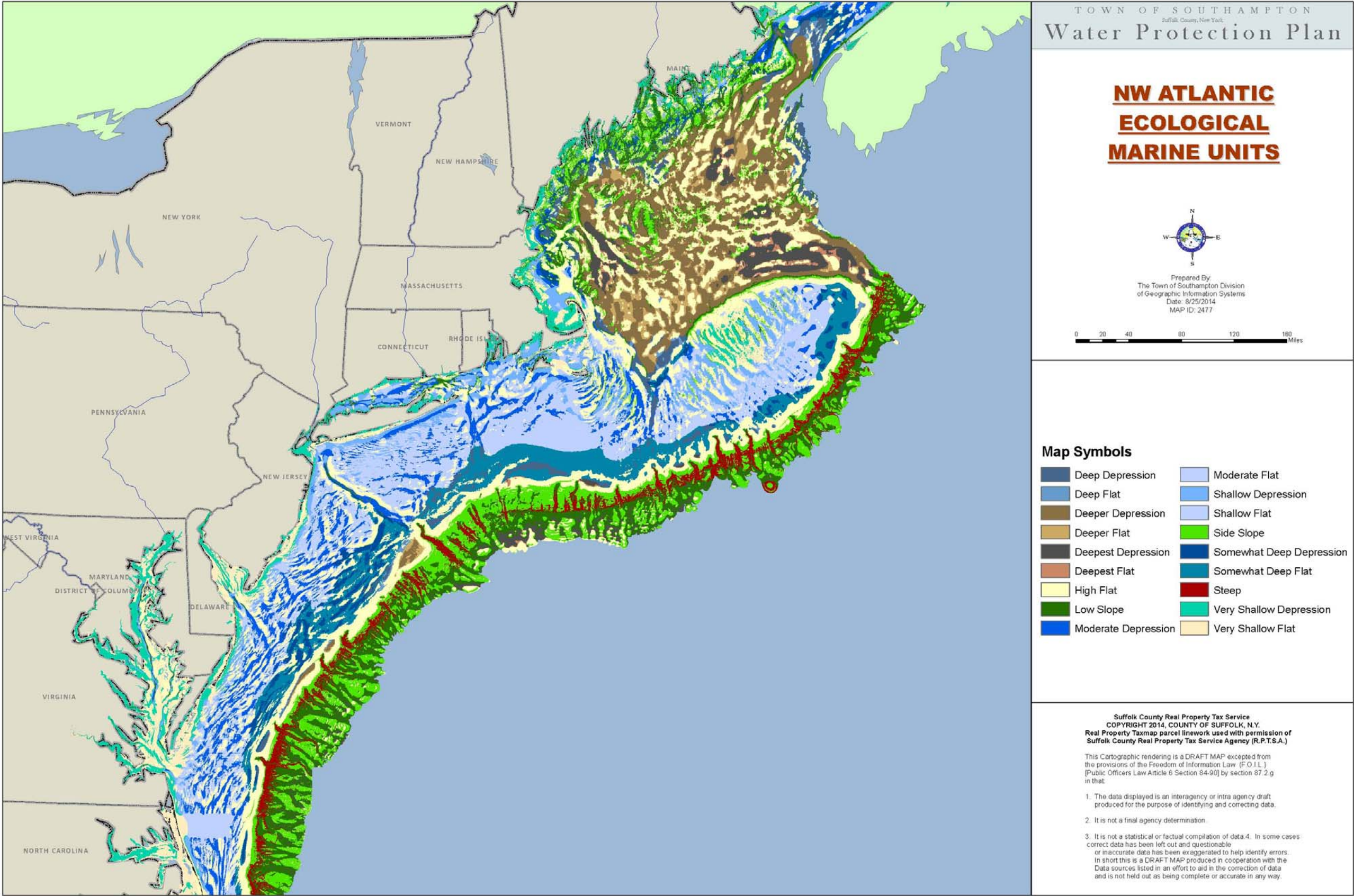
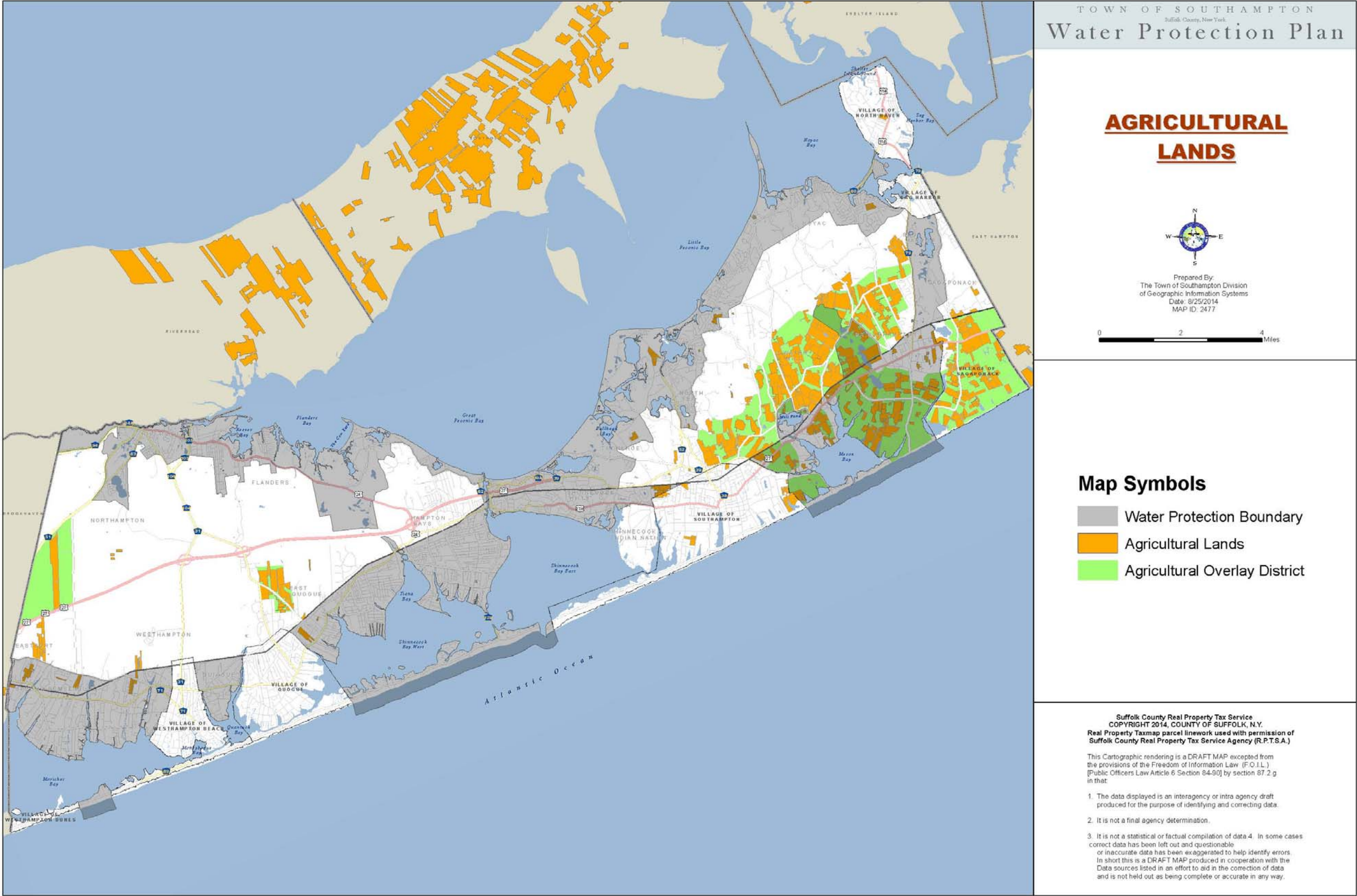


Figure 7: Agricultural Lands





SECTION 2: LOCAL POLICIES AND IMPLEMENTATION TECHNIQUES

The Policies of the Town of Southampton Water Protection Plan (SWPP) are adapted from the Coastal Policies of the New York State Coastal Management Program to account for the circumstances specific to the nature and uses of the Town's waterfront and coastal resources. The broad Policy topics of the SWPP include development and land use; historic and cultural resources; scenic resources; flooding, erosion, and sea level rise; water quality and quantity; the ecosystem and natural resources; air quality; solid waste and hazardous substances and waste; public access and recreation; water dependent uses; the sustainable use of living marine resources; agriculture, and energy and mineral resources. The Policies:

- consider the economic, environmental, and cultural characteristics of the Town,
- are designed to be comprehensive and reflect Town and State laws and authorities,
- represent a balance between economic development and preservation that will permit beneficial use of, and prevent adverse effects on, the Town's waterfront and coastal resources, and
- effectively take the place of Coastal Policies of the New York State Coastal Management Program within the Town of Southampton, if the Plan is approved.

If the Plan is approved, the Policies will be the basis for federal, State, and Town consistency determinations of activities affecting the waterfront area of the Town⁵. The policy statements are followed by explanations that provide guidance and standards for applying the policy statement to many circumstances. The policy statements and their explanations will be utilized in the consistency review required by federal, State and Town law and regulations. In the event that a circumstance arises during a consistency review which is not directly addressed in these policies or policy explanations, additional relevant factors may be considered in determining whether an activity is consistent with achieving the goals of the policy.

⁵ See Sections 3-5 of this plan for a discussion of coastal consistency determinations and <http://www.dos.ny.gov/communitieswaterfronts/consistency/index.html>.

Where a policy explanation cites a Town law, regulation, or plan to which adherence is required in determining the consistency of an activity, the full text of the law or plan is included as an Appendix in official copies of the printed Town of Southampton Local Water Protection Plan. Electronic versions of the Southampton Local Water Protection Plan will include links to any referenced law, regulation, or plan.

The federal, State, or Town activities that require consistency with the Town's Waterfront Policies are determined by the provisions of federal, State, or Town law respectively, and may vary. The federal agency activities are identified in the New York State Coastal Management Program, as amended, and in consistency determinations for certain US Army Corps of Engineers' general permits. State agency actions that are required to be consistent with the Town's Policies are identified in Section 5 of the Town of Southampton Local Water Protection Plan. The Town government actions⁶ that would require a consistency determination are described in the Local Consistency Law. With minor exceptions, they coincide with Type I and Unlisted actions pursuant to SEQRA.

While the standards for determining the consistency of an action with the Southampton Water Protection Plan are the same for all three levels of government, namely the Policies of the Southampton Program, the procedures to be followed for the determination of consistency are set by federal, State, and Town law respectively, and therefore differ for each level of government.

The following text describes the core topics of the Local Water Protection Plan. For each topic, the Plan provides a general description of the topic area, identification and analysis of the issues, and the policies and implementation techniques developed to address the issues. The issues were identified through public meetings, interviews, reviews of existing studies and plans, and discussions with the Town. Additional background information and further discussion of the issues is available in Part 2 of this Plan (Inventory of Resources and Analysis of Issues).

⁶ Town government actions do not include the actions of the Town of Southampton Trustees who are a separate municipal entity.

DEVELOPMENT AND LAND USE

The land within the proposed waterfront area boundary consists of a diverse range of uses. Residential uses, primarily medium density⁷, are the dominant use. Commercial uses are concentrated in the several hamlets of the Town, most of which are within the Plan boundary area, or in its incorporated villages, which are outside of the Plan boundary area. Agricultural uses are found throughout the southern waterfront area but are concentrated near and east of Mecox Bay. The majority of the Town's agricultural lands lie outside the Plan boundary area in the more easterly central part of the Town. Marine-related uses are found along all portions of the Town shoreline. Although there are few vacant parcels within the Plan boundary area, some land is available for development. Institutional uses and golf courses, occupying large parcels of land, also characterize portions of the area encompassed by the Plan boundary, particularly to the east of the Shinnecock Canal and in the northeast part of the Town. Large areas of other open space also exist, particularly near the head of the Peconic Bay and along stretches of the barrier island west of the Shinnecock inlet. These areas of open space are primarily park land. Smaller areas of public open space are found throughout the Plan boundary area. Low density development, vacant land, open space, and agricultural lands (other than those in the southeast portion of the Town) are mainly found in the interior portions of the Town, and not within the waterfront area. Figure 8 shows these areas and the land use distribution.

The 2006 Land Cover map reflects the general patterns of development shown on the Land Use map but shows a more refined pattern of developed land. Land Cover maps are also available for 1996 and will be available for future dates so that the change in land cover over time can be identified and analyzed and may be used in monitoring measurable objectives for managing the pattern of development and its associated impacts, such as increases in impervious surfaces.

Southampton is a resort community and, given the seasonal changes, the population cannot be meaningfully expressed as a static number. According to the 2010 federal census, the permanent resident population of Southampton was more than 57,000—a figure that includes the population of the incorporated villages within the overall boundary of the Town. During the summer months the population can swell to approximately 168,000. This occurs when seasonal homes are fully occupied, lodgings and camp sites are full, and permanent residents have guests⁸.

The major regulatory programs guiding the pattern of development include: the various zoning districts (the Resort and Waterfront Business district is an important determinant of the character of the pattern of water-related development along the waterfront); the Pine Barrens

⁷ As defined on the appended map prepared by the Town of Southampton entitled *Land Use*.

⁸ Unless otherwise noted, the population figures and projections are taken from Suffolk County Department of Planning reports.

Figure 8: Land Use

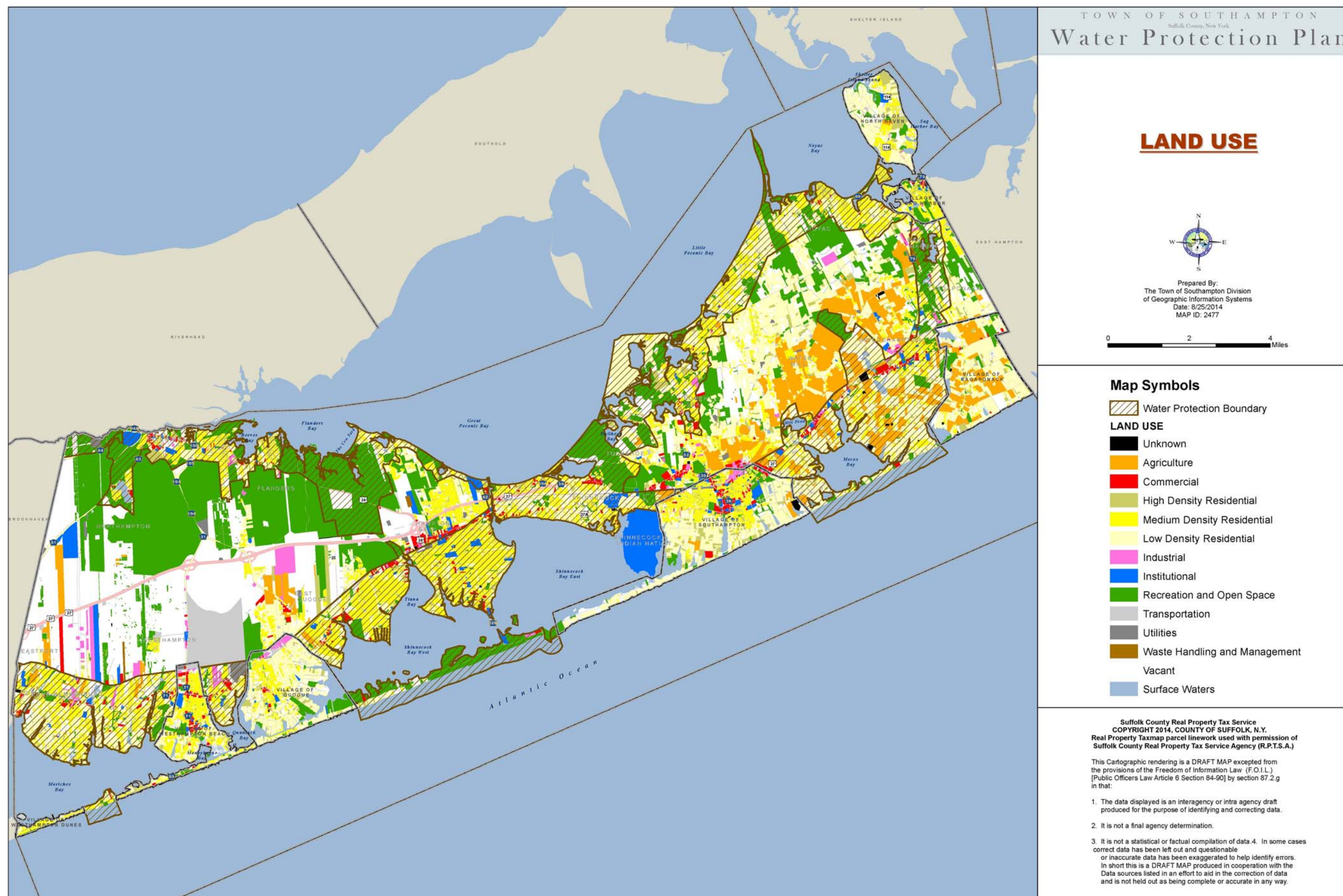


Figure 9: Land Cover from 2006 National Land Cover Database

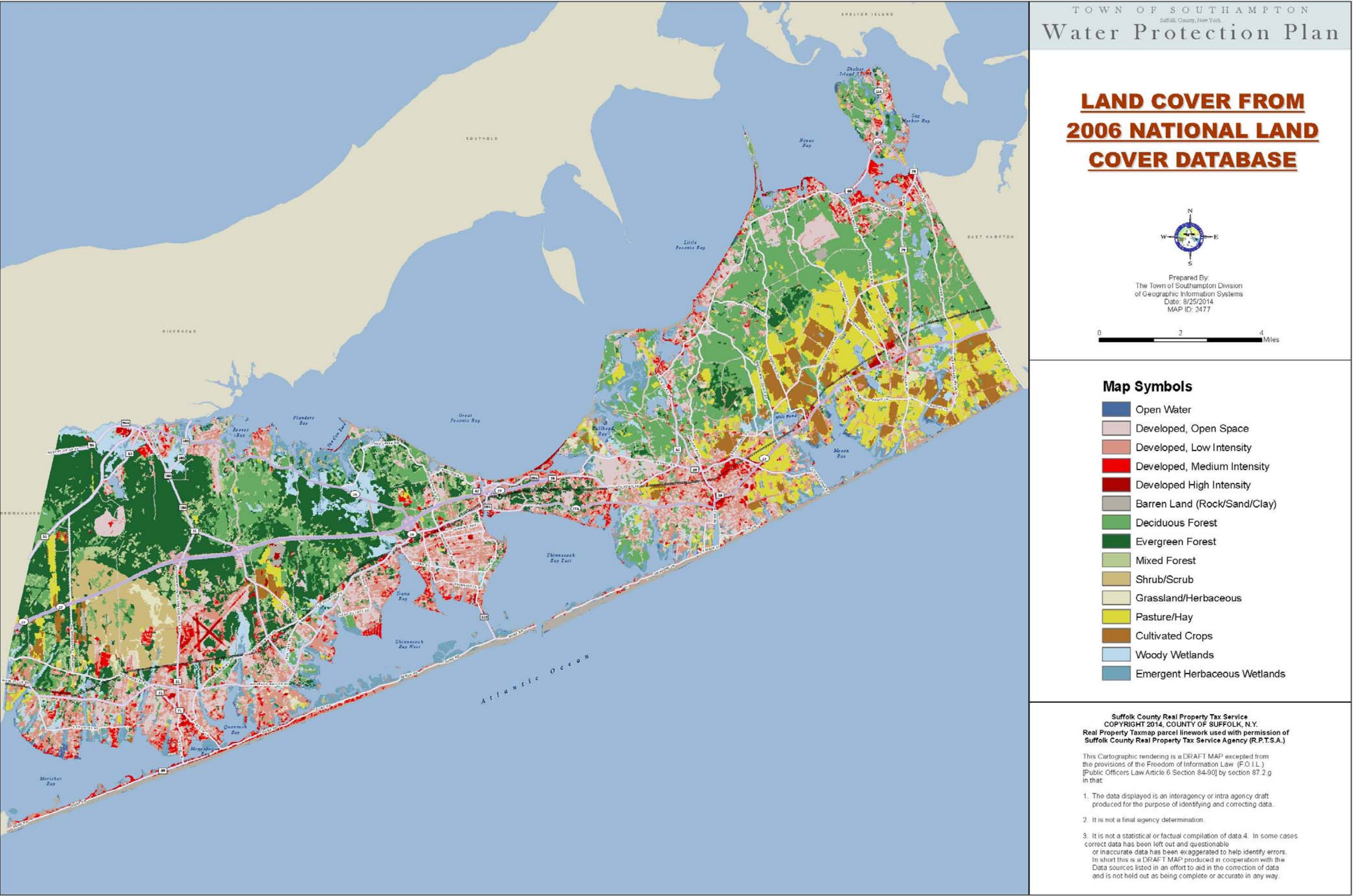
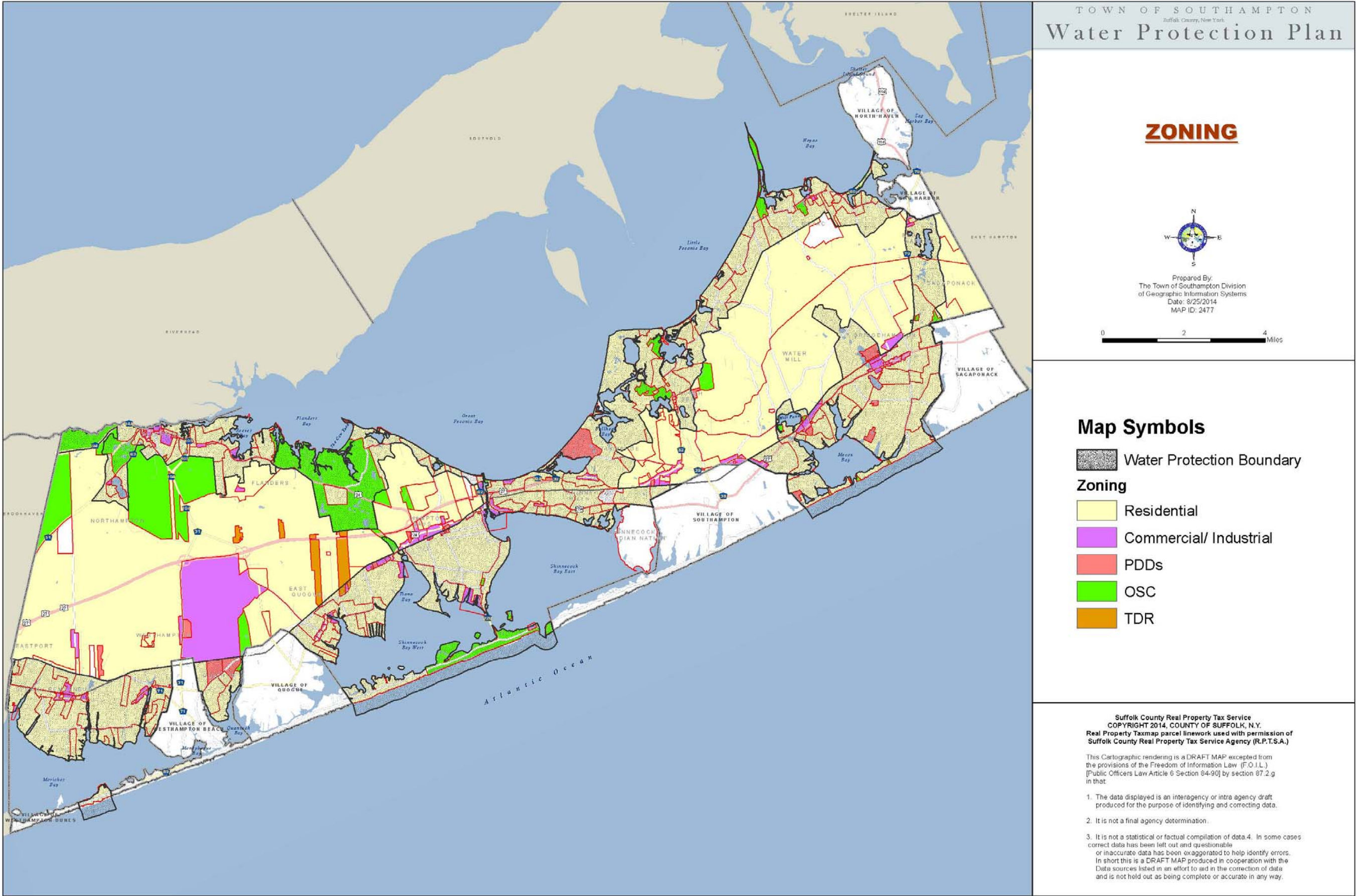


Figure 10: Zoning (THE MAP BELOW IS A PLACEHOLDER FOR MORE DETAILED ZONING MAP)



Program and its transfer of development rights; Agricultural Districts; County regulation of septic systems; wetland regulations; and flood plain and coastal hazards area regulations. Other public programs that influence the pattern of development are those associated with the provision of infrastructure, including flood and storm damage prevention programs, land purchases for open space and other purposes such as agricultural development rights, the Town's Hamlet studies, the Town's Master Plan, and other planning studies. The Town's Hamlet studies are an important means for managing the character of those portions of the Town and their role in the Town's overall development pattern.

Issues and Analysis

Land use and development issues integral to addressing water quality, visual quality, habitat protection, management of coastal processes, sea level rise and flooding, water-dependent uses, and agriculture are discussed in the sections of this document specific to those topics.

Development Patterns

The pattern and uses of developed and open land help define the character of Southampton. Within the Town, the developed land features historic hamlets (as well as the villages) that serve as commercial centers. These hamlets possess a distinctive character (*e.g.*, reflect a maritime heritage) and serve as focal points for commercial, cultural, and recreational activities within the Town. The Vision Statement of the 1999 Comprehensive Plan Update⁹ says to, "Promote business centers that not only meet consumer needs, but also enable small business retention and attraction, and bolster the hamlet and Village centers that are essential to Southampton's economy, 'town and country' image, and quality of life."

The following factors delineate how the Town will manage the general pattern of development to accommodate the projected increases in permanent population, new seasonal residences, commercial development and redevelopment:

- continual implementation of Comprehensive Plan recommendations and zoning code updates;
- transferring development away from sensitive areas such as within the Central Pine Barrens Core for drinking water protection, and limiting clearing on specific parcels to allow for greater recharge into aquifers (through the Aquifer Protection Overlay District (APOD) and the Pine Barrens program),
- preservation of prime agricultural soils and the farming heritage of the Town (through the Agricultural Overlay Districts, cluster subdivision requirements, and purchase of development rights programs),
- regulation of new construction or placement of structures in order to maintain a safe distance from areas of active erosion and from the impacts of coastal storms/sea level rise. Existing programs include the Coastal Erosion Hazards Act and the Fire Island to Montauk Point Study

Existing zoning, at saturation, would accommodate substantially more growth than projected population increases would require but not necessarily in a manner likely to protect or improve the character of the development pattern as broadly indicated by the New York coastal policies. Within the above constraints on, or determinants of, the location and intensity of development, development requires management and regulatory approaches that achieve the following:

- maintaining the rural and small-town character of Southampton and the extensive natural areas within the Town,

⁹ Town of Southampton. 1999 Update to the Southampton Comprehensive Plan.

- maintaining the recreational uses that characterize large tracts of private land (zoning incentives that retain the existing recreational uses (*e.g.*, golf courses) should be considered),
- keeping the open space character of institutional uses,
- avoiding conversion of economically valuable uses such as water dependent/enhanced uses to those that privatize the waterfront (including revisions to zoning regulations that allow for conversions of hotels/motels to condominium uses in Resort Waterfront Business (RWB) districts, and
- maintaining the traditional and unique character of each hamlet.

Policy 1: Foster a pattern of development in the Town of Southampton that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a coastal location, and minimizes adverse effects of development.

Natural areas, parks, woodlands, the barrier islands, the Pine Barrens, working agricultural lands, as well as large institutions and golf courses, contribute to the open space component of the Town's pattern of development. The open landscape provides ecological, scenic, recreational, and economic benefits to the Town. "The wealth of natural resources in Southampton Town today, from the Pine Barrens and its pristine aquifer, to the estuaries, wetlands, beaches, parks and open spaces, [is] integral to Southampton's unique quality of life enjoyed by both seasonal and year-round residents. As such, the ecological integrity of Southampton's natural resources must be maintained and protected"¹⁰.

The distribution of developed and open lands establishes a pattern of human use that reflects an historic choice to base economic development on the natural resources of the Town, such as its rich farmland and fishery resources. In order to maintain the Town's character and all of the associated benefits (*e.g.*, tourism, employment, cultural preservation), development, public investment, and regulatory decisions should preserve open space, agriculture, and natural resources and sustain the historic hamlets as centers of activity. Water-dependent uses generally should locate in existing areas of maritime activity in order to support the economic base and maintain the maritime character of these centers, and to avoid disturbance of shorelines and waters in open space areas.

The Town has formalized this sentiment in its regulations, stating,

"The Town Board through the adoption of the 1999 Comprehensive Plan Update has determined that the natural, scenic, and/or agricultural qualities of open land, areas of special character or special historic, cultural or aesthetic interest or value are important to the Town of Southampton and should be protected. The scenic, historic, cultural, and economic identities of the Town are embodied in its farmland as well as the natural environment. Indirectly, the Town's second home and tourism industries are anchored by the scenic beauty and history provided by the Town's farmland and natural resources. For example, the continued loss of farmland is at this time critical to the future of farming

¹⁰ Town of Southampton. 1999 Update to the Southampton Comprehensive Plan.

for, with continued losses, the critical mass necessary for a farming economy will disappear”¹¹.

This policy to foster a development pattern that provides for beneficial use of the Town’s resources is reflected in the Town’s local laws that manage the pattern of development including the Zoning Law (Chapter 330 of the Town Code), Transfer of Development Rights Law (Chapter 244) and the Community Preservation Program (Chapter 140). All the other policies of the Plan, particularly those addressing scenic and historic resources; development in areas subject to flooding, storm surge, erosion, and sea level rise; public access and recreation; agriculture; and the working waterfront, are also central to advancing this policy.

1.1. Manage development and redevelopment consistent with the vision of the Comprehensive Plan.

- a. Adhere to the Town Zoning Law standards for uses, densities, and siting of development. The zoning law reflects the proposed land uses and pattern of pattern of development. However, among the uses permitted in any zoning district, the SWPP identifies certain uses as the preferred proposed land use. Existing agricultural uses are preferred to new residential use, existing golf courses may be preferred to new residential uses, existing water-dependent and enhanced uses are generally preferred to other uses. Park land is to remain park land. The open space character of large institutional uses is to be maintained. Purchase or transfer of development rights is also a determinant of the proposed land use.
- b. Adhere to the recommendations established by the Town’s adopted hamlet studies.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 330, Zoning
- Town Board adoption of Hamlet Plans

Implementation Through Projects:

1. Identify projects designed to implement Hamlet studies.

1.2 Ensure that development or uses take appropriate advantage of their coastal location.

- a. Reserve coastal waters for water dependent uses and activities. No non-water dependent uses or activities are allowed over the water except for any uses and areas specifically identified in Section 3 of this document.
- b. Accommodate water enhanced uses along the waterfront where they are compatible with surrounding development, do not displace or interfere with water dependent uses, and reflect the unique qualities of a coastal location through appropriate design and orientation.
- c. Ensure that water dependent and water enhanced uses and activities minimize effects on undredged bottomlands, finfish habitat, or shellfishing areas.

¹¹ Chapter 244 of the Town Code.

- d. Maintain or expand the number of existing publicly available boat slips in any development of adjacent upland.
- e. Allow other uses that derive benefit from a waterfront location. See Policy 1.1(a) for a list of preferred uses in Town.
- f. Avoid uses on the waterfront which cannot, by their nature, derive economic benefit from a waterfront location.
- g. Maintain or increase accommodations necessary to support the Town's tourist economy. Avoid conversion of hotels and motels located in the Resort and Waterfront Business Zoning District to residential use.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 330, Zoning
- Chapter 330-5, Definitions, water-dependent and water-enhanced uses
- Chapter 330-33, Resort and Waterfront Business
- Chapter 330-33, Motel Business
- Chapter 330-34, University District
- Chapter 292; 35– 42, Subdivision Design Standards
- Chapter 330-182, Objectives of Site Plan

Implementation Through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. Chapter 330; 33. Revise Resort and Waterfront Business and Motel Business District and make other related zoning district revisions. There are numerous water-dependent uses whose current zoning does not allow these uses, as well as some residential uses that are zoned RWB, in which zone they are not an allowed use. These uses generally exist as legal non-conforming uses. Current water-dependent uses not within a RWB zone should be considered for rezoning in one of the following three ways: 1) rezone to RWB where the range of uses allowed in the RWB is appropriate for the site; 2) rezone to a new marine use zoning district (or districts) that allows a range marina uses that are appropriate to a given site; 3) in order to maintain existing water-dependent uses which may not be appropriate for rezoning to RWB or to a new marina district and that presently exist as non-conforming uses and to prevent their change in use to other than a conforming residential use amend section 330-10, Residence Districts Table of Use Regulations, to include as a permitted use, any marina or boat yard existing as of January 1, 2015.

Among the several marine uses zoned as residential and which should be considered for rezoning are:

- six (6) properties at the head of Smith Creek,
- three (3) properties on Mill Creek,

- two (2) properties on Old Fort Pond,
- two (2) properties on North Sea Rd., and
- one (1) property each on Bay Rd. in Flanders, Dock Rd. in Remsenburg, and on Sebonack Creek.

Under New York State Real Property Law, water dependent uses zoned for that use pursuant to an LWRP are to be assessed for their value as a water dependent use, and not for “higher” potential use. This is the current practice in Southampton.

There are also several properties in residential use that are currently zoned RWB. The use of these properties is not likely to change and there is no demand for water-dependent or enhanced use. These properties should be considered to be rezoned as residential use with an appropriate density.

2. Chapter 330; 155. Revise to prohibit waterfront motel conversions to residential use in RWB zones.
3. Chapter 330-30. Revise by adding C. (1) Within any business district adjacent to a marine waterbody a change in use from one permitted or special exception use to another use may not result in a reduction of the number of existing boat slips or other means of boating access and boating services available to the public as part of the previous use of the site. In determining the number of boat slips available to the public, the number shall be at least 80% of the maximum number available in any of the previous five years.

1.3 Protect established residential areas.

- a. Maintain established residential areas and allow for continued compatible residential and supporting infrastructure in, or adjacent to, such areas consistent with the need to minimize, over time, the risk of loss of development to flooding, erosion, storm surge, or sea level rise.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 330, Zoning
- Chapter 138, Coastal Erosion Hazard Areas
- Chapter 169, Flood Damage Prevention

1.4 Maintain and enhance natural areas, recreation, open space, aquifer recharge areas, and agricultural lands.

- a. Avoid loss of economic, environmental, and aesthetic values associated with these areas.
- b. Avoid expansion of infrastructure and services that are designed to promote other uses of these areas.
- c. Maintain natural, recreational, open space, and public use values including those associated with large institutional properties, golf courses, and beach clubs. Such properties in public ownership shall not be sold or changed in use without a plan that preserves their open space characteristics.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 330, Zoning
- Chapter 330, Article V, Open Space Conservation and Park District
- Chapter 330, Article VIA, University District
- Chapter 330, Article VIII, Tidal Wetland and Ocean Beach Overlay District
- Chapter 330, Article X, Agricultural Protection Overlay District
- Chapter 330, Article XIII, Aquifer Protection Overlay District

1.5 Minimize adverse impacts of new development and redevelopment.

- a. Minimize or avoid potential adverse land use, environmental, and economic impacts that would result from proposed development.
- b. Minimize the potential for adverse impacts from any development that individually may not result in a significant adverse environmental impact, or otherwise substantially hinder the achievement of the policies of this Program, but when taken together with other existing or likely future similar development, could contribute to or induce subsequent significant adverse impacts by considering the cumulative and secondary effects of the development.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local law:

- Chapter 157, Environmental Quality Review¹²

Implementation Through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. Chapter 157, Environmental Quality Review. Revise to include these coastal policies as a subject of the required analysis in an EIS. This is now required of State, but not local, agencies if the State does not have an involved agency. The analysis of the Southampton Coastal Policies in an EIS would substitute for a separate consistency analysis. A separate finding regarding the consistency of the action with the Southampton Coastal Policies would still be required.
2. Local Coastal Consistency Law. Establish a Local Coastal Consistency Law as part of the State acceptance process for this document.

¹² The existing Environmental Quality Review and the proposed Local Coastal Consistency Law are relevant to the implementation of all of the Coastal/Waterfront Policies whenever an activity requires these reviews.

HISTORIC AND CULTURAL RESOURCES

The 1999 Comprehensive Plan Update for Southampton Town¹³ generally describes the community's historic and cultural resources as follows:

"The historic and cultural pasts of Southampton are integral to its sense of place, sense of community, economy and attraction as a visitor and second home destination. In order for these resources to be adequately protected, this historic identity must be recognized and interwoven into the overall fabric of the Town."

The Plan Update goes on to make clear the linkages between the local economy (based on being a resort and destination site, location for second homes, agriculture, and a series of centers for small businesses) and "long-term environmental and growth management strategies." Maintaining historic values as part of "community character" and a "sense of place" is a major component for the Water Protection Plan.

The Town of Southampton has a rich cultural history extending over thousands of years from the initial occupation by Native Americans, its current use by the Shinnecock Nation, and early inhabitation by European colonists, through to present times. This history is reflected in archaeological remains, architecture of extant buildings, and the design and nature of the hamlets and other land use patterns. A considerable account of the growth and development of the Town over time may be read in its historic cemeteries and historic sites.

Current Historic and Cultural Resource Designations

Federal and State Designations

The National Historic Preservation Act allows buildings, sites, districts, structures, or objects that are at least 50 years old to be listed on the National Register of Historic Places. A New York State Register of Historic Places has generally similar requirements, and sites listed on one Register are often listed on the other. Listing on the Registers gives the listed site a measure of protection against adverse impacts of activities by the federal and State government respectively. While private property owners using private funds can alter or demolish their properties—even if listed on or eligible for the State or National Registers—without a review process, listing certainly increases local awareness and enhances the potential for protection through acquisition, dedication, avoidance, easements, or other means.

Town of Southampton Designations

The Town of Southampton has established a range of historic and archaeological categories in Town law, code, regulation, and practice. These are generally summarized below.

Historic Landmarks

A Landmark, under Southampton Town Zoning Code, is a designated property or structure subject to additional regulations. More specifically, landmark status requires that alterations and demolitions undergo review by the Town's Landmarks Board; and projects must receive a Certificate of Appropriateness prior to building permit approval.

Historic Districts

¹³ Town of Southampton, 1999. Southampton Tomorrow: Comprehensive Plan Update, Implementation Strategies.

An Historic District, under Southampton Town Zoning Code, is a designated area where specific regulations apply to properties within its boundaries, and where alterations to properties and demolitions require additional review by the Town's Landmarks and Historic Districts Board. As of November 2014, Southampton Town has not established any Historic Districts, although they exist in some of the villages. In 2011, the Town Board commissioned the Southampton Historic Resources Survey¹⁴ to identify properties that may be worthy of designation as Town Landmarks. This Survey was finalized and accepted by the Town in 2014. The individual properties included in the survey were also identified as contributing to either a potential Historic District, which has discrete boundaries, or a non-contiguous Multiple Resource District. In some cases, resources may also be considered as part of a non-contiguous Thematic District.

Heritage Areas

A "Hamlet Heritage Resource Area" is "an honorary title bestowed in recognition of the special character of a neighborhood, hamlet, or area." It honors the properties and the community that has cherished its historic heritage. Properties selected as Hamlet Heritage Resources retain the current rights, uses or regulations under Town law—however, they are not automatically designated as Town Landmarks or within Town Historic Districts¹⁵.

Historic Markers

There are at least ten designated markers within the boundary of this Plan, indicating sites of historic importance to the community. These have been erected in rest areas and along roadways to provide a perspective on the history and geography of the Town.

According to the NY State Museum, this program was begun in 1926 to commemorate the Sesquicentennial of the Revolutionary War, and was discontinued in 1966. (The program has now devolved into a database and management program.) The New York State Museum presently maintains the archives even though the historic markers themselves are no longer funded by State appropriations. Private organizations are welcome to submit the necessary paperwork to have a new marker erected at a local historic site and the Museum will act as a clearinghouse for such proposals. Southampton has, in some instances, informally undertaken to maintain existing historic markers when they have been damaged or have shown signs of wear.

Critical Areas (As part of the Environmental Quality Review)

Chapter 157, section 10 (Environmental Quality Review) of the Southampton Town Code identifies and provides an extra level of review for projects identified as being Areas of Particular Concern with respect to locations having social, cultural, historic, archaeological or educational importance. These include:

- Shinnecock Indian Contact Period Village Fort,
- Sugar Loaf Hill Shinnecock Indian Burial Grounds and Archaeological Resources Area,
- Any sites identified in the Town of Southampton Cemetery Study and adopted by the Town Board, and
- Sites where human remains and/or funerary objects are likely to be located as specified on the Town Landmarks and Historic Districts Board's Cultural Resources Subcommittee's Inventory Map.

Other Historic Resources

Historic Vistas

¹⁴ AKRF and Jaqueline Peu-Duvallon. 2014. Historic Resources Survey: Town of Southampton, Suffolk County, NY.

¹⁵ Section 330-5, "Definitions", Southampton Town Code.

In addition to existing historical resources, there are a number of remembered vistas from years past that have subsequently been developed or which have overgrown. These live on in the memories of residents or visitors, in post cards and old photos, or as documented in the archives of historical societies and libraries. There are sometimes requests to restore these vistas, as they form a part of the heritage of the Town. At present there is no systematic identification or designation process in place for such vistas but some have been protected through community preservation fund (CPF) acquisition or subdivision review activities.

Historic Street and Roadway Design

The roadways and streets of the Town evolved from the earliest land use patterns. Generally the land use was developed and the roads grew to connect them. As such they reflect how the Town grew, and how it is growing. Maintaining both the location and the nature of these roadways is a bow to the history of the Town, its hamlets, and its uses—including those related to the waterfront.

Available Inventories of Historic and Cultural Areas, Sites and Contents

South Shore Estuary Plan

As part of the development of a Management Plan for the South Shore Estuary Reserve, a summary of historic resources within the boundaries of the Reserve was prepared¹⁶. (The southern portion of Southampton, between the Brookhaven town line and the eastern margin of Shinnecock Bay, are included within the Reserve Boundary.)

Hamlet Studies

Designation of several Hamlet Heritage Areas within hamlet centers and surrounding areas has been undertaken by the Town following the preparation of Heritage Area Reports, including those for the Water Mill¹⁷, Eastport¹⁸, Quogue¹⁹, Bridgehampton²⁰, East Quogue²¹, Flanders²², and Hay Ground Heritage Areas²³. These contain detailed information about the historic resources of the designated Heritage Areas and are available on the Southampton Town web site.

Web-based Inventory

An interactive map showing various historic areas and specific sites has been established for the Town²⁴. This includes locations, photographs and descriptive information for Historic Landmarks, Historic Districts, Heritage Areas, cemeteries, historic markers, and other historic points of interest within the boundaries of the Town of Southampton.

Off-shore, Near-shore and Beach Area Inventory

¹⁶ Allee, King, Rosen and Fleming. 1997. South Shore Estuary Reserve; Technical Report Series, Historic, Cultural and Scenic Resources: Part 2: Cultural, Historic and Scenic Resources. Prepared for the South Shore Estuary Reserve Council under contract with the NY Department of State. Online at: www.nyswaterfronts.com/final_draft_html/Tech_Report_HTM/Land_Use/P2_Cultural/First_HSC2.htm.

¹⁷ Haresign, Marlene. 2003. Water Mill Hamlet Heritage Area Report.

¹⁸ Michne, Ronald A. Jr. 2005. Eastport Hamlet Heritage Resource Area Report.

¹⁹ Michne, Ronald A. Jr., 2008. Quogue Hamlet Heritage Resource Area Report.

²⁰ Sandford, Ann, 2009. Bridgehampton Hamlet Heritage Resource Area Report.

²¹ Hyde, E. Belcher, 2014. East Quogue Hamlet Heritage Report.

²² Spanburgh, Sally, Janice Jay Young, Gary Cobb. 2014. Flanders Hamlet Heritage Area Report.

²³ Flack, J. Kirkpatrick, 2011. Hay Ground Heritage Area Report.

²⁴ Southampton New York Historic Places. Online at: <http://historic.southamptontownny.gov/>.

This project was designed to survey the near-shore areas along the south coast of Long Island for shipwrecks to be avoided in advance of dredging to stabilize Long Island's southern shoreline²⁵. It includes an intensive historic records search to identify known and potential wrecks in those areas. More than 450 potential locations in the area between Fire Island and Montauk were identified.

2000 Historical Survey

A Cultural Resources Survey was prepared for Southampton in July 2000²⁶. The Cultural Resources Survey inventoried 300 historic structures in the 16 unincorporated hamlets of Southampton. The Survey has not been officially adopted by the Town, nor have the resources identified in the survey been officially designated as landmarks.

2014 Historic Resources Survey

As described above, an updated Southampton Historic Resources Survey Report was completed by AKRF & Peu-Duvallon in 2014²⁷. This Survey has been accepted by the Town and includes an inventory of historic resources throughout the Town. It specifically identifies properties that may be worthy of designation as Town Landmarks, as well as properties that may be contributing to possible Historical Districts, Multiple Resource Districts, and/or Thematic Districts.

Archaeological Surveys

There have been some archaeological surveys within the bounds of the Water Protection Plan designed to assess pre-Colonial (Native American) sites. Included are those associated with specific development projects, *e.g.*, those by Bernstein and Manfra^{28,29} and the Long Island Power Authority³⁰ done in conjunction with the proposed LIPA Southampton to Bridgehampton Transmission Line.

Issues and Analysis

Comprehensive Plan Updates

The broadest existing discussion related to Town-wide management of historic and cultural resources is the 1999 Comprehensive Plan Update³¹. This document, and its supporting Technical Report, reviewed the historic resources of the Town and provided a number of Action Items to improve their management. A January 2012 Town of Southampton Board work session assessed the current status of the Action Items and indicated that many have been completed or are in progress. Further investigation and discussion seems warranted to assess whether the outstanding recommendations from the 1999 Plan should be addressed.

Pre-Colonial Resources

²⁵ John Milner Associates. No date available. Long Island Beach Reformulation Study. Produced for The Greeley Polhemus Group and the U.S. Army Corps of Engineers, New York District.

²⁶ GAI Consultants, Inc. and Fanning, Phillips & Molnar. 2000. Cultural Resources Survey of the Town of Southampton, New York. Prepared for the Department of Land Management of the Town of Southampton.

²⁷ AKRF and Jaqueline Peu-Duvallon. 2014. Historic Resources Survey: Town of Southampton, Suffolk County, NY.

²⁸ Bernstein, David J. and Allison J. Manfra. 2007. A Stage 1 Archaeological Survey for the KeySpan Substation in Bridgehampton, Town of Southampton, Suffolk County, New York.

²⁹ Bernstein, David J. and Allison J. Manfra. 2007. A Stage 1A Archaeological Survey for the Proposed Southampton to Bridgehampton Transmission Line Upgrade, Town of Southampton, Suffolk County, New York.

³⁰ Long Island Power Authority. 2007. Draft Environmental Impact Statement: Southampton to Bridgehampton Transmission Line and Expansion of Bridgehampton Substation.

³¹ Town of Southampton. 1999. Southampton Tomorrow: Comprehensive Plan Update, Implementation Strategies.

The Shinnecock Nation's heritage is important to the Town, but the entire suite of sites important to that heritage has not yet been identified. There may be many yet undiscovered sites outside the boundaries of the Reservation that could lead to a better understanding of interactions between Native Americans and European settlers. Location and management of these sites should be emphasized in the process of research for historic artifacts, cultural preservation, and current cultural interactions. The Shinnecock Nation is in the early stages of investigation into preparing a land use and management plan that may address historical and cultural issues on their lands. Coordination between Town agencies and members of the Nation are critical to pre-Colonial resource identification and preservation.

New or Expanded Designations

As mentioned (as of November 2014) no areas have been designated as Historic Districts in the Town. This designation is a tool that provides management options to preserve significant neighborhoods or smaller areas of historic import. The possibility of designating Historic Districts within the Town should be explored further. Similarly, the designation of Historic Landmarks and Hamlet Heritage Areas has been used effectively in the past and offers options for future use in preservation efforts.

Tools available to assist in new designations or management of existing ones include the Southampton Historic Resources Survey—now completed and accepted by the Town.

If the preservation and management of significant historic vistas is important to the Town, a methodology needs to be developed for their identification and protection/restoration. In various areas of Town there are visual barriers to historic resources and vistas. In some instances these are "wall-to-wall" buildings, but in most cases, the barrier is a privet hedge. This issue was described in the 1999 Comprehensive Plan and continues to be a point of concern in some locations.

Improvements in Administration of Existing Programs

Currently several entities are involved in the management of historic and cultural sites and resources within the Town, including the Town Landmarks and Historic Districts Board, the Planning Board, the Public Works Department, and the Trustees. Better coordination between these entities could contribute to improved management of the cultural and historic resources within the Water Protection Plan area.

Within the existing Hamlet Heritage Areas (and potential Historic Districts) preservation or restoration standards presently are somewhat vague. The definition of specific regulatory design controls for these areas would make review processes much more predictable and consistent.

In most communities budgets are limited—including what is spent on the preservation and management of historic and cultural resources. A number of possibilities exist to improve this process with minimal budgetary impacts. These include:

- Increasing the degree of public participation. Due to budget realities, the wide range of historic and cultural resources, and the reality that many of the historic resources are on private property, there is a need to involve the public in historic preservation and management. It is important to create a culture of stewardship for these resources as a means of improving their protection and maintenance. This can be taught in schools, brought to adults through publications, web sites, etc. Volunteers can be used to identify or survey historic resources. Continuing tax abatement and maintenance programs to help manage historic sites and structures on private lands offers an additional valuable management tool.
- The local historical societies, the Rogers Memorial Library, and hamlet organizations, already immensely valuable in compiling information, preserving artifacts and records, and making Town

residents aware of the historic and cultural history of the area, might also be important resources to help coordinate efforts to improve management of historic sites and structures.

- The Town Clerk's Office has been instrumental in preserving and making available historic records via the internet. Encouragement of this process and linking it to other efforts could increase public awareness and stewardship.

Impacts from Sea Level Rise and Coastal Erosion

As with contemporary buildings and properties, there is the potential for impacts to historic and cultural resources from sea level rise—either from the inland movement of surface waters or elevation of groundwater—and coastal erosion. Presently no analyses have been done to assess the potential for such impacts specific to historic or cultural resources, although the tools exist to map historic and cultural resources and overlay them with projected flooding impacts, projected sea level rise, or areas where groundwater levels are near the surface.

Policy 2: Preserve historic resources of the waterfront area.

Just as the pattern of current development helps to define the Town's character, "The historic and cultural pasts of Southampton are integral to its sense of place, sense of community, economy and attraction as a visitor and second home destination. In order for these resources to be adequately protected, this historic identity must be recognized and interwoven into the overall fabric of the Town"³².

Native American sites reflecting thousands of years of habitation within the Town, Colonial era farmsteads and outbuildings, 19th century commercial districts, fishing ports, and a wide variety of traditional architectural styles are important components in defining the distinctive identity and heritage of the waterfront area of the Town—and, as such, continue to shape the culture of the Town.

The intent of this policy is to maintain and restore the historic structures and traditional architectural styles as well as the archaeological resources of the waterfront area. Effective maintenance of historic resources must also include active efforts, where appropriate, to restore or revitalize these resources. Two important aspects of management of historic and cultural resources must be clearly acknowledged; 1) there is considerable historic character to the waterfront area of the Town and 2) many, if not most, of these resources are on private property. It will be the policy of the Town to initially explore incentives for historic and archaeological preservation and restoration prior to implementation of any potential regulatory actions.

Understanding the current and past role(s) of the hamlets within the Town is critical to preserving the historic and cultural resources of the Waterfront area. All of the hamlets have long architectural, maritime and cultural histories as well as recognizable and distinct senses of place. These histories and senses of place are reflected in the hamlets' development patterns, current open spaces, and remnants of past activities and structures. Consequently, there has been a significant effort to protect the nature of the hamlets.

2.1 Maximize preservation and retention of historic resources.

- a. Preserve the historic character of the resource by protecting historic materials and features or by making repairs using appropriate measures.
- b. Protect or re-establish historic vistas that provide context for events of the past.
- c. Ensure that new or expanded development proposals recognize and complement the

³²Town of Southampton. 1999. Update to the Southampton Comprehensive Plan.

surrounding natural scenic context and the developed aesthetic nature of existing and historic architecture, building arrangements, land use, and infrastructure patterns in order to maintain or restore the traditional sense of place.

- d. Protect established Historic Districts and Hamlet Heritage Areas, as appropriate, as a means of maintaining historic and cultural stability of an area.
- e. Follow established or recognized design standards for Landmarks and Historic Districts and design guidelines/plan books for Hamlet Heritage areas.
- f. Provide for adaptive re-use of historic resources, with sensitivity to historic integrity when considering alterations to those resources.
- g. Minimize loss of historic resources or historic character when it is not possible to completely preserve the resource.
- h. Relocate historic structures only when there are no reasonable options to preserve the resource in place.
- i. Avoid potential adverse impacts of development on nearby historic resources.
- j. Protect and maintain historic cemeteries to the maximum extent possible.
- k. Identify and prioritize historic properties facing risk of impacts from coastal erosion, flooding, and sea level rise and utilize appropriate management techniques to protect these properties.
- l. Where preservation of a structure, either through purchase or regulation, solely to maintain its historical essence is not feasible, consider repurposing the structure for contemporary usage while maintaining its historical features.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 330 Zoning; Article XXVIII, Landmarks and Historic Districts and Heritage Resource Areas.
- Chapter 330, Zoning; Article XIX, Architectural Review
- Chapter 330, Zoning; General provisions
- Chapter 330, Zoning; Article XX, Administration and Enforcement
- Chapter 298, Taxation; Article XII, Exemption for landmarks or Properties Within Historic Districts
- Chapter 194, Historic Documents
- Chapter 140, Community Preservation Fund
- Chapter 123, Building Construction
- Chapter 292, Subdivision of Land; Article III General Application Procedures

Implementation Through Proposed Changes to Existing Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. Chapter 292-5 (Major Review) and Chapter 292-6 (Minor Review). Revise procedures for

subdivisions and §330-184 Site Plan Application procedures to direct the Planning Board to request an advisory opinion from the Landmarks and Historic Districts Board regarding impacts on historic resources.

2. Chapter 330-320 F. Revise to add emphasis on protection of structures on the State and Federal Historic Registers.
3. Chapter 330-171. Revise Architectural Review Board Criteria to allow the Board to review compatibility of proposed changes with the historic character of the existing building as well as neighboring structures, in the case of Town Landmarks, and buildings on the State and Federal Historic Registers.
4. Chapter 330-248. Amend membership of the Landmarks and Historic Districts Board to include a registered landscape architect.
5. Chapter 140-6 (4). Interpret the provisions of the Community Preservation Program to include historic landscapes and/or areas of historic context.
6. Consider the development of a new section of the subdivision application regulations designed to protect historic landscapes or contexts similar to the language in §292-6.2 which protects existing trails. Such a program would require 1) establishment of a Town procedure to identify and designate historic landscape or context areas; 2) adoption of language in the Town Code to evaluate impacts of subdivisions on such areas; and 3) implementation of protection of such designated areas. Steps 1 and 2 should include both the Landmarks and Historic Districts Board and the Department of Land Management/Planning Board.
7. Chapter 330-322. Presently this Chapter allows the Landmarks and Historic Districts Board to review proposed relocations but only within Historic Districts and Landmarks. Revise this section to allow opportunity for review outside of these designations.
8. Establish subdivision and site planning guidelines and standards to protect historic resources when development is planned on or near historic properties. Provide for the preparation of advisory opinions from the Landmarks and Historic Districts Board as discussed above.
9. Ensure that new construction, renovations or additions are compatible with historic neighborhoods through the provisions of the Landmarks and Historic Districts Board duties and capabilities.

Implementation Through Projects:

1. Publicize and disseminate the Southampton Historic Resources Survey³³ and any similar material.
2. Develop standards and mechanisms to establish original dates of construction of potential historic structures. This has apparently been difficult in the past due to lack of data on the history of structures and difficulty in assessing the value of structures that have been heavily modified over time.
3. Develop and implement a public signage program intended to locate and identify the various types of historic resources and historic areas of the Town. Extend the current signage program for Heritage Areas, Historic Markers and Town Landmarks to include additional historic resources.

³³ AKRF and Jaqueline Peu-Duvallon. 2014. Historic Resources Survey: Town of Southampton, Suffolk County, NY.

4. Develop and implement a public education and outreach program to make Town residents and visitors aware of the historic and cultural resources existing within the Town and efforts being made to protect them. This would include such efforts as the existing “Southampton, New York Historic Places” (<http://historic.southamptontownny.gov/>). Include information on the economic incentives/benefits to property owners from preservation and maintenance.
5. Devise strategies to recreate and restore the historic character of the Town’s hamlets and rural areas within the boundaries of the Water Protection Plan, with an increased emphasis on protecting historic landscapes and settings as well as individual structures. Work with local historic preservation groups to create additional “Hamlet Heritage Areas,” as appropriate, that identify and protect locally significant historic districts, buildings and sites. Update Hamlet Plans where necessary to include more specific guidance to be used in decisions by the Planning Board, the Landmarks and Historic Districts Board, and the Architectural Review Commission.
6. Develop and implement specific design standards for Historic Districts and design guidelines/plan books for Hamlet Heritage areas. Develop similar design guidelines and/or pattern books for owners or potential purchasers of historic properties as a means of providing predictability and guidance regarding incentive or regulatory programs.
7. Identify, describe, and map the Maritime Heritage Areas within the Town. Use these descriptions and maps in planning and regulatory decisions.
8. Using maps of known historic and cultural resources, assess the threat of impacts due to sea level rise (either direct impacts from encroachment by surface waters or indirect impacts such as elevations of groundwater), storm surge, or coastal erosion using GIS technology.
9. Using the existing Town law, designate Historic Districts as appropriate.

Implementation Through Proposed Administrative Changes or Actions:

1. Develop an administrative structure for historic resource preservation and restoration which relies on and supports hamlet-based historic preservation groups and integrates them into a Town-wide strategy for protecting historic resources.
2. Establish a mechanism to allow hamlet-based historic preservation groups to become more involved with Town Boards and Departments in both developing strategies for the protection of historic resources and the implementation of these strategies through regulatory and acquisition programs. The historic preservation groups could be utilized to provide advisory input regarding historic resource identification and values to the Landmarks and Historic Districts Board, the Planning Board, and/or the Architectural Review Board.
3. Link historic preservation goals and programs with other community enhancement programs including farmland preservation, open space acquisition, recreation and park development, scenic landscape and scenic roads protection, and hamlet center conservation efforts.
4. Integrate local historic preservation initiatives with State and federal programs and the work of non-profit groups in the community.
5. Ensure that appropriate efforts are made to protect and maintain historic cemeteries.

2.2 Protect and preserve archaeological resources.

- a. Consult with members of the Shinnecock Nation to identify sites important to their history and

culture.

- b. Minimize potential adverse impacts by redesigning projects, reducing direct impacts on the resource, recovering artifacts prior to construction, and documenting the site when redevelopment is deemed appropriate.
- c. Prohibit appropriation of any object of archaeological or paleontological interest situated on or under either uplands and underwater lands owned by the Town of Southampton or New York State, except as provided for in Education Law, § 233.
- d. Identify and prioritize archaeological sites facing risk of impacts from coastal erosion, flooding, and sea level rise, and utilize appropriate management techniques to protect these properties.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 330, Zoning; Article XXVIII. Landmarks and Historic Districts and Heritage Resource Areas.
- Chapter 330, Zoning; Article XIX. Architectural Review
- Chapter 330, Zoning. General provisions
- Chapter 330, Zoning; Article XX. Administration and Enforcement
- Chapter 298, Taxation; Article XII. Exemption for landmarks or Properties Within Historic Districts
- Chapter 194, Historic Documents
- Chapter 140, Community Preservation Fund
- Chapter 123, Building Construction
- Chapter 292, Subdivision of Land; Article III General Application Procedures

Implementation Through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. Chapter 292-5 (Major Review) and Chapter 292-6 (Minor Review). Revise procedures for subdivisions and §330-184 Site Plan Application procedures to direct the Planning Board to request an advisory opinion from the Landmarks and Historic District Board regarding impacts on archaeological resources.
2. Chapter 330-248. Revise Landmarks and Historic Districts Board duties to include the preparation of advisory opinions on impacts to archaeological resources.

Implementation Through Proposed Administrative Changes or Actions:

1. Where possible, re-establish closer ties between the Landmarks and Historic Districts Board and representatives of the Shinnecock Nation to develop a clearer sense of the location and nature of archaeological resources of import to Native Americans.
2. Establish a coordinated administrative program to identify, protect, restore, enhance and maintain archaeological, historic, and cultural resources within the Town.

3. Establish a clear focus for the regulatory and incentive processes and coordinate the roles of committees and boards working to conserve the historic resources of the Town.
4. Work with local Historic Societies, museums, and libraries and other non-governmental groups to increase awareness of archaeological, historic and cultural resources.

Implementation Through Projects:

1. Using maps of known historic and cultural resources, assess the threat of impacts due to sea level rise (either direct impacts from encroachment by surface waters or indirect impacts such as elevations of groundwater), storm surge, or coastal erosion using GIS technology.

2.3 Protect and enhance resources that are significant to the waterfront culture.

- a. Protect the character of historic maritime areas.
- b. Protect such resources from impacts resulting from erosion, flooding, and sea level rise.
- c. Protect historic shipwrecks, should any be identified in Town or adjacent waters.
- d. Prevent unauthorized collection of artifacts from shipwrecks.
- e. Identify and prioritize sites significant to waterfront culture facing risk of impacts from coastal erosion, flooding, and sea level rise and utilize appropriate management techniques to protect these properties.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 330, Zoning; Article XXVIII. Landmarks and Historic Districts and Heritage Resource Areas
- Chapter 330, Zoning; Article XIX. Architectural Review
- Chapter 330, Zoning. General Provisions
- Chapter 330, Zoning; Article XX. Administration and Enforcement
- Chapter 298, Taxation; Article XII. Exemption for landmarks or Properties Within Historic Districts
- Chapter 194, Historic Documents
- Chapter 140, Community Preservation Fund
- Chapter 123, Building Construction
- Chapter 292, Subdivision of Land; Article III. General Application Procedures
- Southampton Board of Trustees “Blue Book” and related Town Law and regulations

Implementation Through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. While it is unlikely that there are undiscovered historic shipwrecks in the waters of the Town, it should be the stated policy of the Trustees and the Town Department of Land Management

that any historic shipwrecks in Town or adjacent waters should be protected. A statement to this effect should be incorporated into the Trustee's Rules and Regulations (Blue Book) and by reference into Town Code.

Implementation Through Projects:

1. Using maps of known historic and cultural resources, assess the threat of impacts due to sea level rise (either direct impacts from encroachment by surface waters or indirect impacts such as elevations of groundwater), storm surge, or coastal erosion using GIS technology.

SCENIC RESOURCES

The 1999 Comprehensive Plan Update for Southampton Town³⁴ generally describes the community's scenic resources as follows:

“Southampton’s unique scenic quality and sense of place is derived from the interplay of rural farmland, areas of undeveloped open space, water frontage (bay, ocean) and the hamlet centers. This rural character graces the Town with significant natural and historic resources. It is this quality that maintains the Town’s vitality as a resort, second home and visitor attraction, as well as an attractive place to live and work.”

The Plan Update goes on to make clear the linkages between the local economy (the resort and destination industries, the location for second homes, the agricultural businesses, and the series of centers for small businesses) and “long-term environmental and growth management strategies.” Maintaining the scenic values as part of “community character” and a “sense of place” is a major component for the Water Protection Plan.

Types of Scenic Resources

The human eye sees beauty in a wide variety of landscape settings. Research has shown that the nature of preferred scenic qualities varies predictably among differing portions of the population, *e.g.*, young vs. old; resident vs. tourist; etc. This does not mean, however, that scenic values and visual impact assessment is, as is sometimes charged, entirely subjective. Richard Smardon from State University of New York, Syracuse has done extensive research on scenic values and landscape assessments. His findings of general public opinions include³⁵:

- A preference for open, panoramic views and a dislike of “filtered” (having to look through or around structures) views,
- A preference for “order”; *i.e.*, well-maintained areas and structures as opposed to deteriorating or overgrown sites,
- Development that fits into the “historic” context of an area as opposed to significant changes in shape, size, color or style,
- A preference for diverse, but well-maintained, vegetation,
- A preference for structures that are perceived as marine- or water-related, particularly those that enhance water access, and
- A dislike for “tourist-like” development and development in undeveloped coastal landscapes.

Wohlwill (1983)³⁶ and Zube and McLaughlin (1978)³⁷ assessed perceptions of visitors/tourists and residents to coastal and waterfront development. In both studies residents were more tolerant of coastal development if economic income was generated to benefit the community (and the residents who live

³⁴ Town of Southampton, 1999. Southampton Tomorrow: Comprehensive Plan Update, Implementation Strategies.

³⁵ Smardon, Richard. 2003. In Kelty and Bliven, 2003. Environmental and Aesthetic Impacts of Small Docks and Piers; Workshop Report, Status of the Science. Online at: <http://coastalmanagement.noaa.gov/dock.html>.

³⁶ Wohlwill, J.F. 1983. Physical and social environment as factors in development. In D. Magnusson & V.L. Allen (Eds.), *Human Development: An interactional perspective*. New York: Academic Press. Pp. 111–129.

³⁷ Zube, E.H., and M. McLaughlin. 1978. Assessing Perceived Values of the Coastal Zone. *Coastal Zone '78*. V. 1, 360–371.

there). Peterson and Neuman (1969)³⁸ found a divergence in the scenic preferences on beaches and waterfronts. Higher educated, older residents prefer natural beaches with low intensity of uses with attractive vegetation, whereas younger users prefer city beaches with facilities, and do not mind crowds.

Natural Environments

The natural environments of Southampton Town offer a wide variety of scenic vistas that meet the criteria Smardon provides above. Panoramic views of the water—be it ocean, bays, estuaries, or freshwaters—have always drawn people to the shore; and these water views, be they from the water's edge, views from the water to land, or views of the water across a green field or marsh, bring people to the Town. Wetlands along the water's edge provide glimpses of animal life, a wide diversity in species and textures of plant life, and a variety of colors. The uplands within the waterfront area offer views of woodlands and agricultural fields recalling the pastoral nature of earlier days in the Town.

Built Environments

The built environment of the Town includes the hamlet centers, historic architecture, scenic roads and byways and, again, agricultural uses—all vistas that Smardon notes as attractive to inhabitants and visitors.

Historic Vistas

Not all scenic resources currently exist. Up until the late 1800s, much of the waterfront area in Southampton was taken up with farming and fishing activities. As transportation improved with the railroad and the automobile, tourism began in Town, first with rooming houses and eventually with hotels and inns. Southampton also became the site for large second homes. A significant number of these structures, activities, and vistas remain, but many others are remembered images from years past that have subsequently been developed or have been overgrown. Public comments collected during the development of this document suggest an interest in trying to reestablish some of these vistas.

Recognized Areas of High Scenic Quality

The New York Department of State Division of Coastal Resources has established a program to recognize significant areas of high scenic quality. It consists of a scenic assessment program that "identifies the scenic qualities of coastal landscapes, evaluates them against criteria for determining aesthetic significance, and recommends areas for designation by the Department as Scenic Areas of Statewide Significance (SASS). SASS designation protects scenic landscapes through the review of projects requiring State or federal actions, including direct actions, permits, or funding"³⁹. Such designations have been implemented on the East End of Long Island: in 2010, nine areas totaling more than 25,000 acres within the Town and Village of East Hampton were designated as SASS. Currently no areas within the boundaries of Southampton have been so designated.

The Long Island Sound South Shore Estuary Reserve commissioned a Scenic Resources Inventory in 2005⁴⁰ that identified areas with potential for designation as an SASS, several within the boundaries of the Town of Southampton. To date no action has been taken on these recommendations.

³⁸ Peterson, G. L. and E. S. Neuman. 1969. Modeling and predicting human response to the visual recreation environment. *Journal of Leisure Research* 1:219–237.

³⁹ NY Department of State Office of Planning and Development. No Date. Scenic Areas of Statewide Significance. Online at: <http://www.dos.ny.gov/opd/programs/consistency/scenicass.html>.

⁴⁰ Dodson Associates, Ltd. 2005. Long Island South Shore Estuary Reserve Scenic Resources Inventory. Prepared for the Long Island South Shore Estuary Reserve Office.

Local communities can also create designations for areas of high scenic quality through zoning overlay districts or other similar land management mechanisms.

Existing Inventories of Scenic Resources

1999 Comprehensive Plan Update

The Scenic Resources Technical Report section of the 1999 Comprehensive Plan Update identified a number of “scenic resource areas that are integral to the Town.” The process leading up to this identification included a review of hamlet centers; scenic roadways; vistas over the ocean, bays, and ponds; agricultural lands; and upland areas. The Scenic Corridor Technical Report from this effort provided a preliminary analysis of the scenic resources associated with roadways in the Town and a vulnerability analysis that provided a list of which specific corridors were in most need of protection to maintain their qualities and benefits to the Town.

Hamlet Studies

The studies that have been done in most of the hamlets (*e.g.*, Bridgehampton, Noyac, Eastport, Speonk-Remsenburg, Westhampton) all offer recommendations for preservation and improvement of the visual aspects of those geographic areas referring to both built and open space environments. Copies of this material are available on the Town of Southampton web site at <http://www.southamptontownny.gov>.

South Shore Estuary Plan

As a part of the South Shore Estuary Reserve Management Plan, Harry Dodson and Associates⁴¹ prepared a scenic landscape protection plan for the areas that fall within the bounds of the Reserve, which includes the waterfront on the southern side of Southampton from its border with Brookhaven to the eastern side of Shinnecock Bay. The Reserve is considering implementation of the Scenic Areas of Statewide Significance program described above to provide a measure of protection to identified scenic resources

Ongoing Programs

Based on recommendations in the Comprehensive Plan Update, Southampton developed a Scenic Roads Ordinance which allowed the designation of certain roadways and developed programs to maintain their scenic beauty.

The Comprehensive Plan Update also recommended preparing a Scenic Resources Inventory for the Town. To this point, a thorough inventory has not been conducted. The Comprehensive Plan Update included a visual preference survey to gauge the interests of residents. This was not specific to the area addressed by the Water Protection Plan but it does offer insights into the desires of the community. There are, however, two preliminary sources of mapped data related to scenic resources within the Town.

The first is a data layer within the Town's Geographic Information System (GIS) entitled “Scenic Vistas”. This data set was initially defined by the members of the GIS office staff who marked the location of some of the vistas when mapping the 200+ miles of trails in the Town.

As mentioned above, a second data set was compiled for the Long Island South Shore Estuary Reserve by Harry Dodson and Associates. In this instance, the consulting team established locally-based preferences for scenic values and applied these to the areas within the South Shore Estuary Reserve—including bay waters on the southern portions of the Town from the border with Brookhaven to the

⁴¹ Dodson Associates, Ltd. 2005. Long Island South Shore Estuary Reserve Scenic Resources Inventory. Prepared for the Long Island South Shore Estuary Reserve Office.

eastern shore of Shinnecock Bay. Specific areas of scenic resources were defined, mapped and recommended for nomination as a State-designated Scenic Area of Statewide Significance (SASS). Thus far no nomination has been made.

The Town indirectly protects scenic resources in a variety of ways, principally through management of lands owned by the Town or lands in which the Town has some ownership interest. These include public parks, Town CPF acquisitions and Suffolk County Purchase of Development Rights (PDR) properties. Other scenic resources may be protected in lands held by non-profit groups such as The Nature Conservancy or the Peconic Land Trust, subdivision preserves, and private preserves.

It should be noted that, while many of these parcels are acquired or protected in some measure based on scenic resources, generally there are few, if any, specific management limitations assigned to these lands to maintain, protect or improve these resources.

Issues and Analysis

The broadest discussion related to Town-wide management of scenic resources is the 1999 Comprehensive Plan Update⁴². This document, and its supporting Technical Report, reviewed the resources and provided 23 Action Items to better manage and preserve the scenic resources of the Town

Other specific issues evolved from public meetings and interviews with Town staff and interested parties. Specific issues identified include:

Implementation of the Scenic Roadways Program

The 1999 Comprehensive Plan Update recommended the designation of scenic roadways and corridors. As noted above, proposed scenic roadways have been identified in the Water Protection Plan Boundary Area, and draft legislation to create a “Scenic Corridor Overlay District (SCOD)” remains in Long Range Planning without a legislative sponsor. The Town Board must decide whether to move forward with this effort and enact the process for designation.

Identification and Designation of Significant Scenic Areas

As mentioned above, there are various types of designations for areas of high scenic quality. These are typically based on the results of an inventory and prioritization of scenic resources within a community, but may also arise from recognition of (or sometimes a threat to) an area held in high value by the Residents. To date, a series of scenic roadways have been identified (but not yet formally adopted). Further, many environmental, growth management, historic preservation, or land acquisition actions have included an evaluation of scenic resources in their implementation. As of yet, however, there has not been a mechanism established to identify and protect or restore other significant scenic vistas on a Town-wide basis.

Management of Designated Significant Scenic Areas

As noted above, management recommendations already have been provided for Scenic Corridors in the 1999 Comprehensive Plan Update. Within built neighborhoods, better defined architectural review standards would improve protection of significant scenic areas, as would the development of standards for signage, clearing, and landscape maintenance specific to preservation of scenic qualities.

⁴² Town of Southampton, 1999. Southampton Tomorrow: Comprehensive Plan Update, Implementation Strategies.

Policy 3: Protect and, where possible, enhance the visual quality of the natural and man-made scenic resources throughout the waterfront area of the Town.

Southampton has a distinctive, almost unique, blend of scenic resources including large and small waterbodies, the water's edge, rural agricultural areas, a broad array of architectural forms, and historic hamlet centers. These scenic features are critical to the Town's character as a resort, second home and visitor attraction as well as an attractive place to live and work. This interplay of built and natural environments is a major aspect of the visual quality of the Town.

The Intent of this policy is to ensure that these important visual resources remain, or are improved, both to maintain the "flavor" of the Town but also to pass them on to future residents.

3.1 Protect and improve visual quality throughout the waterfront area.

- a. Preserve those open spaces, vistas, farmlands, water-dependent uses, and scenic areas identified by an inventory that defines the character of the individual hamlets and Southampton as a whole.
- b. Protect identified scenic road corridors.
- c. Coordinate with utility companies to place utility lines underground along scenic road corridors.
- d. Integrate the protection of scenic and historic resources in the hamlets, particularly the Hamlet Heritage Areas.
- e. Preserve existing native vegetation and, where appropriate, establish new vegetation to enhance scenic quality.
- f. Protect against invasive species that might adversely impact scenic vistas. A specific example of this includes the management of tall invasive plants (*e.g.*, *Phragmites* sp.) through wetlands restoration.
- g. Recognize water-dependent uses as significant additions to the visual interest of the waterfront.
- h. Ensure visual access to public waterfront areas.
- i. Protect scenic values associated with public lands, including public trust lands and waters, and natural resources.
- j. Enhance existing scenic characteristics by minimizing introduction of discordant visual features.
- k. Ensure that new or expanded development proposals recognize and complement the surrounding natural scenic context and the developed aesthetic nature of existing and historic architecture, building arrangements, land use, and infrastructure patterns in order to maintain or restore the traditional sense of place.
- l. Group or orient structures to preserve open space and provide visual access to scenic resources.
- m. Manage the size and location of docks and piers to minimize visual impacts. Group

- commercial docks and marinas in areas zoned for such activities.
- n. Manage landscaping practices (*e.g.*, tall structures or vegetation) in order to protect views as seen from public areas.
- o. Manage signage to maintain visual quality.
- p. Manage fences and hedges along bulkheads, public rights of way, and agricultural reserves for sensitivity to viewsheds and to protect community character.
- q. Restore deteriorated, and remove degraded visual elements, and screen activities and views which detract from visual quality.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 330, Zoning; Article XIX. Architectural Review
- Chapter 330, Zoning; General provisions
- Chapter 330, Zoning; Article XX. Administration and Enforcement
- Chapter 140, Community Preservation Fund
- Chapter 123, Building Construction
- Chapter 292, Subdivision of Land; Article III General Application Procedures
- Southampton Board of Trustees “Blue Book” and related Town Law and regulations

Implementation Through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. Develop a Scenic Roadways Ordinance to provide the framework for designation and protection of designated roadways. Include specific standards for scenic roads—the Transportation Section of the 1999 Update of the Town Comprehensive Plan provides a starting point.
2. Where necessary, establish Special Assessment Districts (SADs) to fund the placement of utility lines underground.
3. Chapter 330-171. Define the Architectural Review Board’s review criteria and jurisdiction to include scenic corridor guidelines and siting and landscape requirements as they relate to scenic corridors.
4. Clarify architectural standards in order to “define compatibility within neighborhoods.” This should include design criteria associated with the Hamlet Heritage Areas and Historic Districts.
5. Establish standards regarding clearing of vegetation on private property for areas identified as important scenic or historic vistas.
6. Develop regulatory language or make it a policy for the Architectural Review Board and Planning Board to consider water dependent uses as positive scenic resources.
7. Ensure visual access to public waterfront areas through the use of zoning and sub-division

control laws and regulations.

8. Revise existing subdivision regulations to improve scenic resource protection.

Implementation Through Projects:

1. Expand the inventory of scenic resources done for the Long Island South Shore Estuary Reserve to include the entire waterfront area of the Town as suggested in the 1999 Southampton Comprehensive Plan Update. This could include the following:
 - a. Identify scenic vistas from trail heads, roadways, ocean frontage, waterways and hamlet areas. Scenic views from public waters should be identified and protected as well as those from public viewing locations on land.
 - b. Scenic vistas should include views of historic or culturally meaningful structures as well as sufficient geographic and environmental surroundings to provide context to the resource values.
 - c. Vistas that have been important historically should be included along with those of current importance.
 - d. Create a priority list for acquisition, management techniques, or other protective mechanisms, and maintain and update the list on a regular basis.
 - e. Link the identified scenic vistas to a master plan(s) for a hiking/biking trail on Dune Road.
 - f. Make use of the hamlet studies as a source of information about important scenic and cultural areas of importance to inform the priority list; and implement planning and zoning recommendations of Hamlet studies and the Comprehensive Plan Update.

Implementation Through Proposed Administrative Changes or Actions:

1. Define and coordinate the roles of the various boards responsible for designating and protecting scenic resources.
2. Create a culture of stewardship for protecting the public values of coastal scenic vistas. This can be presented in schools, provided to the general public through publications, workshops, web sites, etc. Many of the scenic vistas within the Town will involve private lands. Informing the general public of the values of maintaining the scenic beauty of the Town will encourage both individual actions and community support for regulatory efforts.
3. Coordinate with the villages and the Shinnecock Nation to ensure that resources common to all political sub-units are protected. Many, if not most, of the scenic assets in the Water Protection Plan planning area cross boundaries between the Town, the villages, and the reservation lands of the Shinnecock Nation. Coordinated efforts between the various political jurisdictions will serve to better preserve these public assets.
4. Identify an entity within Town government to be charged with management and protection of scenic resources. Presently there is no single entity charged with identifying and protecting scenic resources through regulatory actions within the Town. Regulatory responsibility is spread between the Southampton Board of Trustees, the Town Planning Board, the Architectural Review Board and, to a lesser extent, the Landmarks and Historic Districts Board.

3.2 Protect aesthetic values associated with recognized areas of high scenic quality.

- a. Protect aesthetic and scenic values associated with the waterfront and any areas designated as Scenic Areas of Statewide Significance (none are presently designated).

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 330, Zoning; Article XIX. Architectural Review
- Chapter 330, Zoning; General Provisions
- Chapter 330, Zoning; Article XX. Administration and Enforcement
- Chapter 140, Community Preservation Fund
- Southampton Board of Trustees “Blue Book” and related Town Law and regulations

Implementation Through Proposed Changes to Local Laws:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. Conduct assessments of potential sites for the State-administered Scenic Areas of Statewide Significance program.
2. Identify and designate Scenic Resource Protection Overlay Areas to protect the important scenic resources of the Town.
3. Develop landscape standards for specific scenic areas in the Town to be implemented through the Architectural Review process, sub-division reviews, or zoning.
4. Define appropriate architectural review standards for specific scenic areas.
5. Develop a Scenic Viewsheds Ordinance designed to protect identified scenic views.
6. Develop and implement a scenic easement provision to allow for tax abatement for property owners willing to maintain scenic viewshed elements on their properties within identified viewsheds or designated Areas of Scenic Significance.
7. Incorporate clearing standards similar to those in §292-39 and §330-67 in a new scenic viewsheds ordinance.

Implementation Through Projects:

1. Implement a Scenic Road Corridors program by identifying and designating scenic road corridors Town-wide to guide conservation efforts, capital investment and future development as proposed in the 1999 Update of the Town Comprehensive Plan. Steps in this process could include aspects such as the following:
 - a. Develop a Scenic Roadways Ordinance to provide the framework for designation and protection of designated roadways. Include specific standards for scenic roads as suggested by the Transportation Section of the 1999 Update of the Town Comprehensive Plan.
 - b. Prepare a document which describes the designation process, public benefits, and costs

of implementing such a program and disseminate this to Town officials; Town boards, commissions, and committees; staff members; and the general public

- c. Designate appropriate areas as Scenic Roadways using materials provided in the Town Comprehensive Plan Update and from public input.
 - d. Coordinate the Town program with the New York State Scenic Byways Program.
 - e. Coordinate with utility companies to place utility lines underground along scenic road corridors.
 - f. Where necessary, establish Special Assessment Districts (SADs) to fund the placement of utility lines underground.
 - g. Coordinate with utility companies for the most appropriate timing for tree trimming or removal in order to maintain vegetated corridors and/or to open scenic vistas from Scenic Roadways.
 - h. Define review criteria and jurisdiction for the Architectural Review Board and/or the Planning Board, as appropriate, to include scenic corridor guidelines and siting and landscape requirements as they relate to scenic corridors.
2. Designate and manage areas of high scenic quality.
- a. Using the inventory of scenic resources described above and the protocols provided for the identification of scenic qualities of coastal landscape by the NY Department of State, assess potential sites for the State-administered Scenic Areas of Statewide Significance (SASS) program. Designation of an area as a SASS protects scenic landscapes through review of projects requiring State or federal actions through the State's consistency program.
 - b. Designate Scenic Resource Protection Overlay Areas to protect the important scenic resources of the Town.
 - c. Develop landscape standards for specific scenic areas in the Town to be implemented through the Architectural Review process or site plan review.

FLOODING, EROSION, AND SEA LEVEL RISE

Flooding, erosion, sea level rise, and storms have had, and will have, significant effects on the resources, economy, and lives of residents and visitors of the Town of Southampton. These phenomena become a problem as people occupy or use the areas where they occur and, consequently, several government programs have been set up to mitigate the effects of flooding, erosion, severe storms, and sea level rise. Numerous technical, policy, and legal studies and reports have been prepared from a general, regional, and Town perspective that address management of flooding, erosion, severe storms, and sea level rise. While additional specific information may be necessary or useful for some projects, current knowledge based on the existing studies and reports, as well as local experience, provide an adequate basis for development of refined policies and new recommendations for improved public management in this area; therefore what follows and introduces the policy is a review of existing studies, programs, and information.

Flooding, Erosion and Severe Storms

The Town's Atlantic Ocean coastline, the mainland shoreline of its coastal ponds and bays, the streams that flow into these ponds and bays, the Peconic Bay shoreline, and fresh water ponds all exhibit different characteristics, based on natural conditions and the manner in which people use these areas, that are important for management.

The barrier beach that extends for most of the Town's Atlantic shoreline, with its wide beach, dune system and wetlands along its bay shoreline, is the mainland's primary defense against the effects of severe coastal storms. This fragile and dynamic landform has been shaped by complex natural processes over centuries, with the accumulation of eroded glacial sediments that are carried westward from Montauk Point in the littoral current and deposited by wave action on the barrier beaches and offshore bars. In addition to the westward growth and movement of the beaches, there is also a landward migration of this system in response to diminishing sediment supply, storm activity, and relative sea level rise⁴³. Erosion is a natural, and generally unavoidable, process that becomes a problem when it threatens man-made structures and places of public recreation, or compromises natural protective features and/or habitat quality. During severe storms, such as nor'easters, tropical storms, and hurricanes, the sea may come completely over the barrier island in specific locations, retreating, as the storm passes, in a process referred to as overwash. In particularly severe storms the sea may create new openings between the ocean and the bay—referred to as breaches. A breach will remain open until it naturally closes or is closed artificially by placing fill or installing a structure. (See the "Proposed Long Island South Shore Hazard Management Program"⁴⁴ for information on the location of past breaches and areas subject to overwash.) While overwashes and breaches can have significant adverse effects on property, they are also natural processes that are part of the long-term maintenance of the barrier beach system.

The development pattern on the barrier beach and other Atlantic shoreline within the Town consists primarily of open space (particularly a large stretch west of Shinnecock Inlet) and low-density residential areas. There is a small concentration of industrial and commercial use just west of the Inlet. This is the location of the commercial fishing fleet. There are several commercial uses, such as restaurants, scattered along the barrier on both the ocean and bay side, and there are a few areas with higher density residential development. There are limited vacant parcels.

⁴³ US Fish & Wildlife Service. 1997. Significant Habitats and Habitat Complexes of the New York Bight Watershed.

⁴⁴ Long Island Regional Planning Board. 1989. Proposed Long Island South Shore Hazard Management Program.

The Atlantic Coast of New York Monitoring Program, a cooperative effort of the US Army Corps of Engineers, the New York Departments of State and Environmental Conservation, and New York Sea Grant, provides beach profiles, aerial photography, and historic shoreline maps from 1830 to 1995. (Maps of these data are not currently available for inclusion in this document.)

The maps show the historic locations of the shoreline over time. From 1830 to 1933 the shoreline was seaward of its present location. The more recent retreat of the shoreline is related to the effects of the presence and maintenance of the Shinnecock Inlet, as well as its jetties, which diminish sand movement to the west. The 1995 line, which is seaward of the 1988 line, reflects beach nourishment with dredged material from the inlet. Maintaining a wide barrier beach west of the Inlet is critical in protecting not just the barrier and the beach, but also the commercial fishing port located on the back of the barrier just west of the inlet.

Until the Shinnecock Inlet's location was stabilized at its present location in the last century, inlets between Shinnecock Bay and the Ocean occurred at various points, generally as the result of storm-created breaches in the barrier beach. Although the Shinnecock Inlet may affect the barrier island, its maintenance is important for providing essential boating access from Shinnecock Bay to the ocean for commercial and recreational purposes. As a result, the manner in which inlets are maintained becomes important.

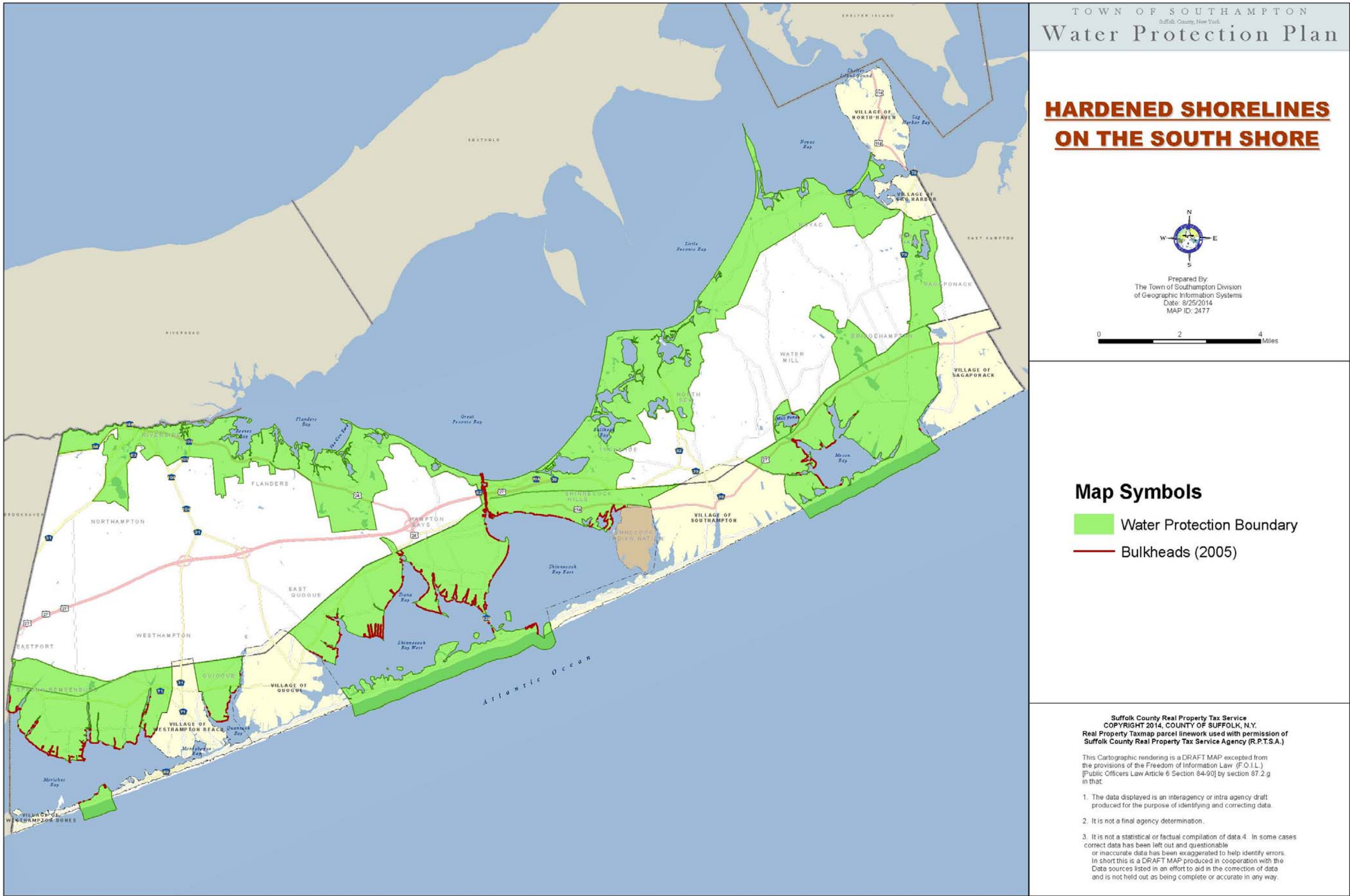
The project is authorized at a depth of 10 feet, a width of 200 feet, and length of 0.46 miles⁴⁵. Dredged material has been used for beach nourishment west of the inlet. Efforts are underway by the Town to develop a joint strategy with the US Army Corps of Engineers (ACOE), NY Department of Environmental Conservation, and Suffolk County Department of Public Works to complete beach and dune re-nourishment following beach and dune loss as a result of Hurricane Irene.

In addition to the effects of the jetties at Shinnecock Inlet, shore parallel structures such as seawalls, revetments, and bulkheads, also have adverse effects on the barrier beach. A report commissioned by the Southampton Board of Trustees stated that, "There is clear, scientific consensus that seawalls (or any shore-perpendicular hard structure designed to halt erosion), when placed on an eroding or retreating beach will cause the beach to narrow and eventually disappear."⁴⁶ Seawalls stop the ability of the beach to move landward. Seawalls can also increase beach loss by wave refraction and scour, *i.e.*, as a wave breaks against the seawall it can pull sand away from the beach. Some seawalls can, by temporarily reducing erosion, prevent sand from feeding the beach; and seawalls can increase erosion/scour at their ends. Shore-parallel structures can have similar effects in the other waterbodies of the Town. The locations of existing shoreline protection structures are shown in Figure 17.

⁴⁵ The description of the maintenance plan for the inlet can be found at: www.nan.usace.army.mil/project/newyork/factsh/pdf/ShInOM.pdf.

⁴⁶ Young, Robert S. 2011.

Figure 11: Hardened Shorelines on the South Shore



The non-barrier island shoreline of the south shore and the shoreline of the Peconic Bay are primarily developed areas subject to flooding, storm surge, and erosion. The areas of the Town that lie within the Federal Emergency Management Agency (FEMA) designated flood zone are shown in Figure 12. This map shows the extensive development that is within the flood zone. The map also shows, based on past hurricanes, the extent and location of areas that would be subject to a storm surge. This information is from a SLOSH model⁴⁷. The extent of development that is at risk in the Town is substantial.

Recent systematic information about shoreline changes along the Peconic Bay shoreline was not found; but, a 1977 Sea Grant study⁴⁸ documented changes in shoreline configuration over time.

Sea Level Rise

Sea level is projected to increase substantially over the next century due in part to climate change. Two recent State reports^{49,50} have outlined the extent of likely sea level rise, its anticipated effects, and a general direction for mitigating or adapting to the effects of sea level rise. In addition to sea level rise, anticipated climate change is expected to increase the number and severity of coastal storms and alter rain fall patterns. While sea levels have been rising since the last Ice Age, the Task Force report estimates that the rise will increase over the next several decades. The sea level rise projections from a September 2014 update of the NYSERDA report are as follows:

Baseline (2000- 2004) 0 inches	Low Estimate	Middle Range	High Estimate
2020s	2 in	4 to 8 in	10 in
2050s	8 in	11 to 21 in	30 in
2080s	13 in	18 to 39 in	58 in
2100	15 in	21 to 47 in	72 in

The major findings of the Task Force were that:

- Sea level and severe coastal storms will increasingly affect the New York coast,
- In addition to people and property, natural resources—particularly tidal wetlands—are at risk,
- Development in hazardous areas continues to be encouraged,

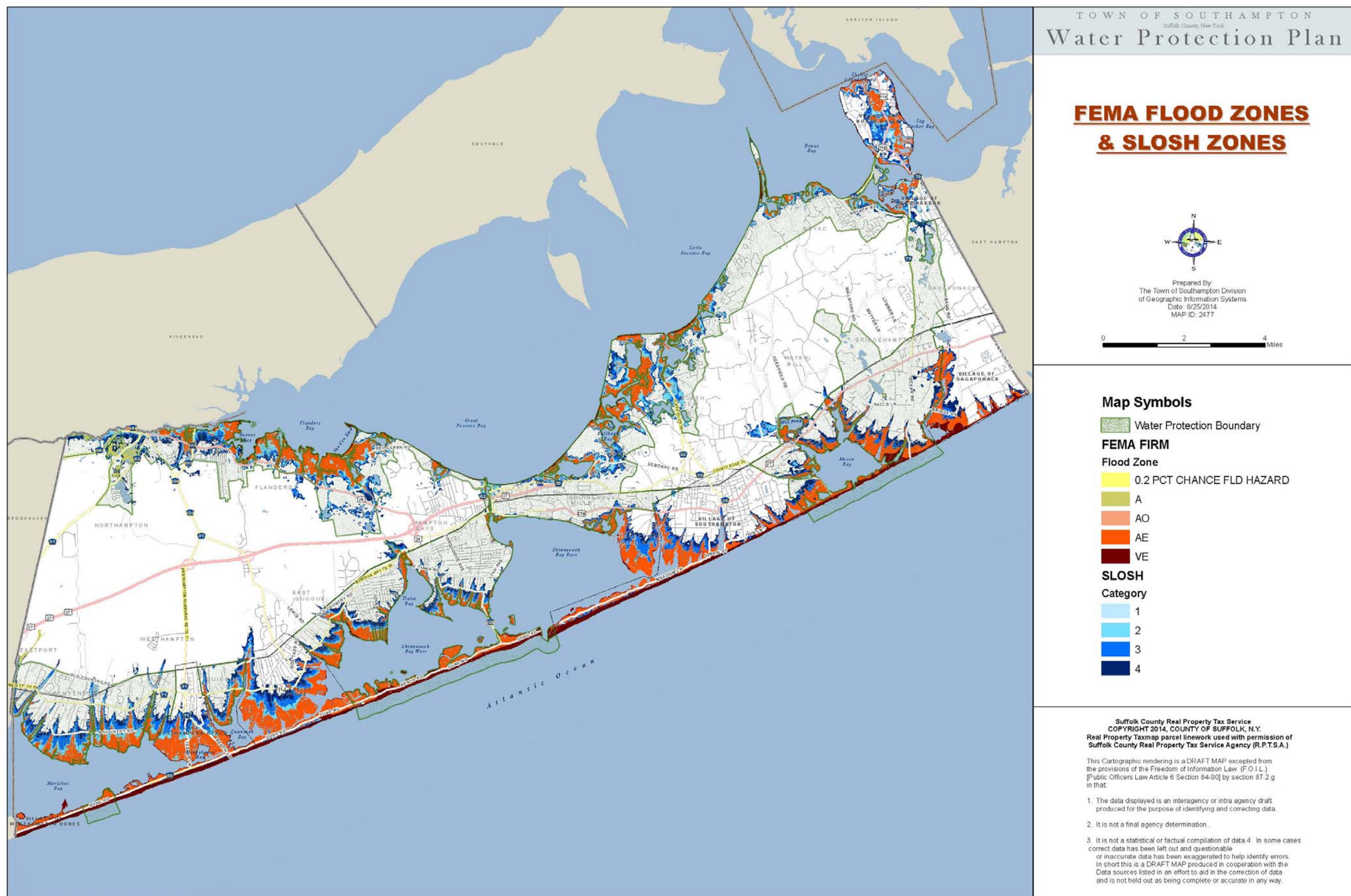
⁴⁷ See www.nhc.noaa.gov/HAW2/english/surge/slosh.shtml for more information on the SLOSH model.

⁴⁸ Eisel, M.T. 1977. Shoreline Survey: Great Peconic, Little Peconic Gardiners, and Napeague Bays

⁴⁹ NYS Sea Level Rise Task Force. 2010. New York State Sea Level Rise Task Force Report to the Legislature. Online at www.dec.ny.gov/docs/administration_pdf/slrtrfinalrep.pdf.

⁵⁰ ClimAID. 2011. Responding to Climate Change in New York State, NYSERDA. Online at: <http://www.nyserda.ny.gov/climaid>.

Figure 12: FEMA Flood Zones & SLOSH Zones



- Structural solutions, except in urban areas, are too costly and have negative effects,
- Better maps of areas affected by sea level rise are needed, and
- Low-cost approaches to reduce vulnerability are available.

The Task force recommended that:

- Official projections of sea level be adopted,
- State agencies factor sea level rise into decisions and prepare maps and regulations to react to projected sea level rise,
- Areas subject to sea level rise and coastal storms be classified as to risk level,
- Reliance on non-structural measures and natural protective features to reduce vulnerability be increased,
- Health risks from sea level rise be assessed,
- Funding for local government, adaptation measures, and research be made available,
- Adaptation strategies be coordinated; and
- Public awareness of sea level rise and climate change be raised.

It is important to note that coastal storms and resulting overwashes and breaches can play a positive role in maintaining the barrier and its resources in the face of sea level rise.

Mapping areas vulnerable to sea level rise projections is important to identifying appropriate adaptation strategies. The Nature Conservancy has developed a methodology for this mapping, developing a Regional Framework for Assessing Coastal Vulnerability to Sea Level Rise in Southern New England⁵¹. The report includes Long Island in “Southern New England”.

Rising sea levels also are anticipated to impact aquifers, as described in the section on water quality.

Coastal Erosion Hazards Area Act (CEHA)

Recognizing the importance of preserving beaches, dunes, bluffs, and other natural protective features, New York State enacted the Coastal Erosion Hazards Area Act as part of the development of the State’s Coastal Management Program. This Program is administered by the Town under Chapter 138 of the Town Code. The CEHA establishes a regulatory line that encompasses the relevant natural protective feature, such as a primary dune, and subjects all proposed structures seaward of that line to review. The standards are strict, and after undertaking a detailed Generic Environmental Impact Statement, the Town established standards to prohibit seawalls in most instances and to require that development be located landward of the setback. The CEHA program also addresses pre-existing structures located seaward of the setback line, and generally requires compliance with the regulations when structures are substantially modified. Sea walls and similar erosion protection measures which are adversely affecting beaches and dunes, but which existed prior to the regulations, are not required to comply with the regulations unless they are modified or proposed for reconstruction following storm damage.

The legislative findings recognize that Coastal Erosion Hazard Areas are prone to erosion from the action of the Atlantic Ocean. Such erosion may be caused by the action of waves, currents running along the

⁵¹ The Nature Conservancy. 2010. Developing a Regional Framework for Assessing Coastal Vulnerability to Sea Level Rise in Southern New England. Online at: http://coast.noaa.gov/digitalcoast/_/pdf/TNC_SNE_case_part1_FINAL.pdf.

shore, and/or wind-driven water and ice. Such areas are also prone to erosion caused by the wind, runoff of rainwater along the surface of the land or groundwater seepage, and/or by human activities such as construction, navigation and certain forms of recreation.

Coastal erosion can cause extensive damage to publicly and privately owned property and to natural resources, and can endanger human lives. When this occurs, individuals and private businesses suffer significant economic losses, as do the Town and the State economies, either directly through property damage or indirectly through loss of economic return. Large public expenditures may also be necessitated for the removal of debris and damaged structures and for the replacement of essential public facilities and services.

Coastal Erosion Hazard Areas also experience erosion-related problems that are often contributed to by man's building without considering the potential for damage to property, by undertaking activities which destroy natural protective features such as dunes or vegetation, by building structures intended for erosion prevention which may exacerbate erosion conditions on adjacent or nearby property, and by water action produced by wakes from boats. These impacts can be mitigated by protecting the natural character of shorelines, beaches, dunes, wetlands and bluffs.

Coastal Erosion outside CEHA

Outside of the designated CEHA, erosion also affects coastal features such as bluffs. Bluff erosion is a natural process whose periodic occurrence is critical to the resupply of sand to the beaches below. The degree of stability of coastal bluffs depends on many different factors including the steepness of the slope; the size, shape and cohesiveness of the soil particles; the amount of moisture in the soils of the slope; actions of humans; and natural forces that tend to disturb the soil. The bluffs of Shinnecock Bay and the Peconics are dynamic natural protective features and are the primary source of sand and sediment for the beaches below. Rock rip-rap and retaining walls can limit the natural interchange of sand between bluffs and beaches and can interfere with beach buildup and, potentially, littoral drift or long shore transport of sand, thereby affecting beach and bluff stability. The falling trees and natural vegetation, as a consequence of bluff erosion, provide organic material and detritus to the near shore marine food web, including intertidal invertebrates and fish. As such, shore modifications can impact ecological functioning, not only by interfering with wildlife habitat, fish and horseshoe crab spawning, and other activities of marine life, but also by preventing the natural build-up of fallen trees and shrub debris at the toe of the bluff. This debris, along with washed up driftwood, provides for natural stabilization of the beach and, through catchment of sand, seeds, and sediment, natural recovery of bluff vegetation and rebuilding of the bluff face. Incompatible activities of concern related to bluff erosion include clearing of natural vegetation atop the bluff, continued mowing and maintenance of lawn to the edge of a bluff face, and the installation of shore hardening structures. Recognizing the habitat value and significance of both Shinnecock Bay and the Peconic Estuary, restoring and improving natural bluff and beach rebuilding processes is a high priority that will allow these ecosystems to recover and work properly without continued intervention and maintenance.

Coastal Barrier Resources Act

The federal Coastal Barrier Resources Act identifies stretches of generally undeveloped barrier beach and restricts federal support for development in the identified areas. For example, federal flood insurance is not available for property built after the mapping of an area as a coastal barrier beach nor for loans or grants for infrastructure that would serve or facilitate new development of these areas. Four areas on

Southampton's Atlantic coast and some small areas of the mainland bay shoreline have been designated under this program⁵².

The Fire Island to Montauk Reformulation Study

The Fire Island Inlet to Montauk Point Reformulation Study is a US Army Corps of Engineer's project, "to identify storm damage reduction risks within the study area and evaluate alternative methods of providing authorized beach erosion and hurricane protection." The study is being undertaken in cooperation with the State of New York and the US Department of the Interior. The study is primarily addressing beach nourishment, breach closing, and mainland flooding. Interim projects provide:

- 1) protection to the area west of the Westhampton groin field through periodic beach nourishment for a period of 30 years (the project also included modification of the groin field);
- 2) a breach contingency plan to provide a mechanism for rapid breach closure; and
- 3) beach nourishment west of the Shinnecock Inlet⁵³.

Flood Insurance Program

The National Flood Insurance Program administered by the Federal Emergency Management Agency provides flood insurance for residential and business property owners and renters in participating municipalities⁵⁴—Southampton is a participating municipality. Participating municipalities adopt local laws to reduce the risk of flooding. Chapter 169⁵⁵ of the Town Code provides standards for development in mapped flood risk areas⁵⁶. The barrier island is either within the VE zone or the AE zone. Within the VE zone, structures must be elevated above established flood levels, and within the AE zone property must be similarly elevated or flood-proofed. Property owners are generally required to purchase flood insurance if there is a mortgage from a federally-regulated bank. The maximum insurance coverage of \$250,000 for a residential structure is low relative to the typical value of structures on the barrier island. FEMA has established a Community Rating System that enables communities to reduce the cost of flood insurance for residents by adopting management measures that exceed the requirements of the National Flood Insurance Program.

Issues and Analysis

Preventing loss of beach is not just a good idea; it's an obligation of government. The State or the Board of Trustees hold their property interests in the beaches and dunes in trust for the benefit of the public and cannot, except in exceptional circumstance, divest themselves of that obligation. This obligation, The Public Trust Doctrine (PTD), is described more fully in the section on public access. The Board of Trustees has long recognized that they are trustees of the public interest in the property they hold, now almost exclusively lands subject to the PTD.

Shoreline Hardening Restrictions

Shoreline hardening has been shown to have adverse effects on natural resources and coastal processes with consequent reductions in public uses and values, and has been shown to be less than effective in

⁵² Maps are found at <http://www.fws.gov/CBRA/Maps/CBRS/121A.pdf> and <http://www.fws.gov/CBRA/Maps/CBRS/120.pdf>.

⁵³ More information on this project can be found at <http://www.nan.usace.army.mil/project/newyork/fimp/index.php>.

⁵⁴ For information on this program see, http://www.floodsmart.gov/floodsmart/pages/about/nfip_overview.jsp.

⁵⁵ See Chapter 169 of the Town Code, available at <http://www.ecode360.com/SO0286>, for specifics.

⁵⁶ See Figure 12, *FEMA Flood Zones and SLOSH Zones*, for areas where this applies.

the long term. Recognizing this, the Town has, through the CEH regulations, limited such uses along the Atlantic shoreline. Approaches to strengthening and clarifying the Town's regulations for protecting natural coastal features, for reducing the extent of development at risk, and for avoiding adverse legal decisions should be identified. The negative effects of shoreline hardening are not limited to the Atlantic shoreline, and additional restrictions on shoreline hardening for the mainland of the southern coastal bays and ponds and for the Peconic Bay shoreline should be considered. Additionally, some shoreline structures allowed on a temporary basis along the Atlantic shoreline (*e.g.*, Geotubes) can have similar effects to more traditional shoreline hardening structures and can have other negative effects if they fail and the remnants are disbursed in the environment.

Beach Nourishment, Breach Closure

The specifics of beach nourishment, *i.e.*, when?, where?, who's responsible?, at what cost?, are questions that need to be addressed. Currently it is New York State and federal policy to fill any breach in the barrier island as quickly as possible. The concepts of whether preventive action should be taken to reduce possible breaches and whether this is a responsibility of the Town should be addressed, as any reparation in the future is apt to be extremely expensive.

Inlet Management

The Shinnecock Inlet is necessary for navigational access. Dredging to lower parameters which still meet navigational needs, and using disposal to the west, undertaken more frequently, could be less disruptive of the natural process.

Community Rating System Score

The Town should renew its participation and address options to improve its score on the Community Rating System. In 2014 there were 5,055 National Flood Insurance Program (NFIP) policies in force in the Town of Southampton (excluding the villages). The value of the insurance in force was \$1,537,208,500 and the premiums paid by property owners for this insurance totaled \$5,730,737. Under the Community Rating System, if the Town documents efforts that go beyond the requirements of the NFIP to reduce the risk of loss to flooding, the NFIP premiums charged to property owners could be reduced by a range of 5% to 45% annually. The percentage reduction depends on the nature and extent of what the Town does and documents in order to reduce the risks of flood damage. The potential savings to policy holders can be substantial and will increase as premiums rise under recent amendments to the National Flood Insurance Program⁵⁷.

Erosion and Protective Feature Setbacks

Though the issues are similar to the Atlantic shoreline, similar erosion hazard area regulations for the Peconic Bay shoreline bluff, barrier beaches, and other natural protective features or development setbacks based on historical recession rates do not exist.

Sea Level Rise and Climate Change Adaptation

Planning for adaptation to sea level rise for the Town will require (1) an understanding of what areas will be inundated under various sea level rise scenarios, (2) the effects this will have on development currently subject to flooding and storms, (3) how effects of sea level rise may vary given the nature of the shoreline, and (4) what infrastructure and development requires protection rather than relocation. The planning will also need to consider different approaches given different planning horizons.

⁵⁷ Biggert Waters Flood Insurance Reform Act of 2012, and Homeowners Flood Insurance Affordability Act of 2014.

Recent storms such as Hurricane Sandy have increased the understanding that government must be better prepared⁵⁸ for the effects of coastal flooding, erosion, storms, and sea level rise by undertaking a thorough assessment of the infrastructure that is now or will be affected and by planning for its protection or relocation. Such planning must also consider the need to maintain and strengthen the Town's resort-based economy and the natural character of the shoreline on which it depends.

The currently expected rise in sea level is described above along with maps of the areas expected to be affected by severe storms and sea level rise. The data available on the extent and nature of sea level rise and the geographic areas potentially affected by severe storms will continue to be incorporated into the Town's Geographic Information System (GIS) database and the most recent State or federal information will be consulted in planning efforts. Sea level rise will affect all shoreline land forms—the barrier beach, wetlands, bluffs, and bay shoreline—whether hardened or natural, although its effects will differ among them.

Policy 4: In the interest of public health, safety and welfare, minimize storm damage to principle structures, infrastructure, and natural resources from flooding, erosion, and sea level rise.

The objective of this Policy is to continue the practice of establishing, regulating, and implementing standards and procedures for: protecting human life; minimizing and preventing coastal flooding and erosion damage to man-made property and structures; preserving public access and the use of the beaches; and safeguarding natural protective features and coastal processes so that they are not interrupted or compromised by development activities as part of the larger effort to ensure local resilience to the effects of climate change (See Town's Climate Adaptation Plan for supplemental information).

4.1 In the interest of public health, safety and welfare, minimize storm damage to principle structures⁵⁹ and infrastructure from flooding, coastal storms, erosion and sea level rise from present and expected future conditions.

- a. Adhere to the construction standards of Chapter 169 of the Town Code for new, substantially improved structures, or substantially damaged structures.
- b. Consider acquisition, both pre- and post-storm, of existing non non-water dependent (*i.e.*, residential) structures within coastal flood zones when moving or elevating the structure beyond the hazard area is not feasible, septic systems cannot be protected from the effects of flooding or storm surge, provision of necessary public infrastructure is not cost effective in light of the hazards, or other situations where the public costs of maintaining development substantially outweigh the public benefits. Take full advantage of State and federal funding

⁵⁸ On September 22, 2014 NYS Governor Cuomo signed The Community Risk and Resiliency Act into law that requires State agencies to consider future physical climate risks caused by storm surges, sea level rise or flooding in certain permitting, funding and regulatory decisions (A06558/ S06617-B). In addition, the State Department of Environmental Conservation will adopt official projections for sea level rise by January 1, 2016 and update the projections every five years. The Department of Environmental Conservation and the Department of State will also prepare model local laws to help communities incorporate measures related to physical climate risks into local laws, as well as provide guidance on the implementation of the Act, including the use of resiliency measures that utilize natural resources and natural processes to reduce risk.

⁵⁹ As defined in Chapter 169 of the Town Code.

for this purpose.

- c. Prioritize acquisition in areas of repetitive storm damage and areas prone to flooding, or where natural coastal resources need to be restored in order to buffer developed areas from future storm events.
- d. Adhere to the standards of the Town zoning law (Chapter 330-42 to 46) and the Coastal Erosion Hazard Area law (Chapter 138) with regard to the location of, and nature of, permitted development. Maximize the setback of development from the shoreline by requiring the development be sited in the least hazardous area of the lot regardless of other lot line setback requirement, Chapter 330-46.2(2).
- e. Regulate land use and development activities in coastal adjacent areas subject to coastal flooding and erosion so as to minimize or prevent damage or destruction to man-made property, natural protective features and other natural resources; to preserve public access and use of the beaches; and to protect human life.
- f. Regulate new construction or placement of structures in order to place them such that they will be a safe distance from areas of active erosion and the impact of coastal storms. This is intended to 1) ensure that these structures will not be prematurely destroyed or damaged due to improper siting, 2) prevent damage to natural protective features and other natural resources, and 3) reduce interference with natural processes that affect those features and resources.
- g. Prohibit the construction of new erosion protection structures in coastal hazard areas and regulate the replacement or reconstruction of existing erosion protection structures along with normal maintenance in accordance with Chapter 138 of the Town Code. Structures allowed pursuant to a variance should be conditioned to ensure that their construction and operation will minimize or prevent damage or destruction to man-made property, private and public property, natural protective features and other natural resources.
- h. Within the natural protective features of all marine shorelines of the Town, including nearshore areas, beaches, bluffs, primary and secondary dunes, marshes, and areas of native vegetation, allow only the limited disturbances specifically identified in Town law as permitted. These actions generally include maintenance of navigation channels, beach nourishment, walkways over dunes, and installation of some moveable structures. On other shorelines of the Town, erosion control structures such as bulkheads and seawalls are limited to exceptional circumstances in order to protect fish spawning areas, wetlands, bird habitat, public access, and the contribution of shore erosion to down-drift beach areas, or to promote improved functioning of water dependent uses. The use of erosion control structures such as bulkheads and seawalls are limited to exceptional circumstances or to allow for the efficient functioning of water dependent uses. New erosion control structures are prohibited on the barrier beaches and the headland beaches for any type of use. Limit reconstruction of existing non-conforming erosion control structures to exceptional circumstances (Chapter 330-46.7).
- i. Allow for beach re-nourishment and soft solutions to provide a long-term solution for bluff erosion. Prevent further bluff and beach erosion with continued sand replenishment at the bluff toe, while preserving existing recovering natural vegetation.
- j. Restrict development within an area adjacent to a natural protective feature to that allowed by the Town zoning law. Development on shoreline parcels shall, to the extent practical,

maximize setback from the shore and minimize setbacks from the landward lot line (Chapter 330-46.2(2)).

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 169, Flood Damage Prevention
- Chapter 138, Coastal Erosion Hazard Areas
- Chapter 330 - 42 to 46 Zoning, Coastal Erosion Hazard Adjacent Areas
- Southampton Board of Trustees “Blue Book” and related Town Law and regulations.

Implementation Through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. Chapter 330. Amend section 330-44 to include within the definitions, bluffs on the Peconic shoreline; and amend 330-46 to establish a setback line from bluff edges on the Peconic shoreline, and establish restrictions on uses and structures shoreward of that line.
2. Amend Chapter 330-46.3 to require protection of natural vegetation landward of the bluff edge and on the bluff face.

Implementation Through Projects:

1. Seek State and federal funding for land acquisition to support this policy.
2. Consider participation in the Federal Emergency Management Act (FEMA) Community Ratings System program. (The program rewards communities that improve their flood plain management by providing discounts of between 5–45% on flood insurance premiums. As flood insurance premiums move toward actuarial rates, this could provide substantial benefits to homeowners.)
3. Develop coastal resilience plans.
4. Provide constituents with educational materials to encourage bluff restoration.
5. Develop and analyze data on erosion rates for tops of bluffs.

4.2 Preserve and restore natural protective features and natural resources.

- a. Maximize the capabilities of natural protective features by avoiding alteration or interference with shorelines in a natural condition; enhancing existing natural protective features; restoring impaired natural protective features; and managing activities to minimize interference with, limit damage to, or reverse damage which has diminished the protective capacities of the natural shoreline.
- b. Minimize interference with natural coastal processes by: providing for natural supply and movement of unconsolidated materials, minimizing intrusion of structures into coastal waters and interference with coastal processes, and mitigating any unavoidable intrusion or interference.

- c. Maintain barrier landforms by allowing natural processes to operate as much as practicable in repair and maintenance of bridges, roads, commercial fishing facilities, and navigational infrastructure. Where alteration of natural coastal processes is necessary to protect important public infrastructure, utilize protection methods that mimic natural coastal processes. These protection measures include beach nourishment, dune building, sand fencing, and marsh creation on the back (landward side) of the barrier. Other structural approaches to erosion mitigation and storm protection are limited to the essential needs of water dependent uses, navigational infrastructure and bridges.
- d. Provide for the migration of wetlands when considering approval of development. (See Policy 6.1)

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 138, Coastal Erosion Hazard Areas
- Chapter 330 - 42 to 46 Zoning, Coastal Erosion Hazard Adjacent Areas
- Chapter 229, Protection of Natural Resources
- Chapter 292, Subdivision of Land
- Chapter 330, Zoning
- Chapter 325, Wetlands
- Chapter 330, Zoning
- Chapter 330 – 182 & 183, Site Plan
- Southampton Board of Trustees “Blue Book” and related Town Law and regulations.

Implementation Through Projects:

1. Identify areas that are prone to breach/overwash and develop a monitoring program in order to be proactive.
2. Develop/implement inlet management plans that allow natural processes to continue in order to enhance water quality and minimize/prevent storm damage (*e.g.* Mecox Bay, Sagg Pong, Squires Pond, etc.)
3. Explore creation of additional beach erosion control districts for the purpose of renourishing beaches that have been affected by storms.

4.3 Protect public lands and public trust lands and use of these lands when undertaking all erosion or flood control projects.

- a. Retain public or Trustee ownership of public trust lands including right of ways and Trustees lands that have become upland areas or former uplands that are now under water due to erosion, fill, or accretion. The Trustees’ easement along the Atlantic shoreline is a rolling easement that moves as the shoreline moves.
- b. Avoid losses or likely losses of public trust lands or Trustee lands, or use of these areas, including public access along the shore, which can be reasonably attributed to erosion control projects.

- c. Mitigate unavoidable impacts from approvable erosion and flood control projects to maintain natural coastal processes and natural resources as well as to maintain public and Trustee lands and their uses.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 157 Environmental Quality Review
- Southampton Board of Trustees “Blue Book” and related Town Law and regulations

4.4 Manage navigation infrastructure to avoid adverse impacts on coastal processes.

- a. Manage navigation channels to limit adverse impacts on coastal processes by designing channel construction and maintenance to protect and enhance natural protective features and prevent destabilization of adjacent areas.
- b. Manage Shinnecock Inlet, either by 1) dredging frequently to the minimum necessary channel depth, width, and length to accommodate the vessels that regularly utilize the channel or inlet, and mitigate all effects on the coastal processes that would otherwise naturally occur at the site, or by 2) instituting ongoing sand by-passing.
- c. Beneficial use of all dredged material is required. All material appropriate for beach nourishment, dune enhancement, or breach closure must be so utilized in the same system or through stockpiling.
- d. Manage Mecox and Sagaponet inlets by allowing or providing for regular breaching to maintain water levels and salinity for oyster habitat and other public purposes. Any dredged material shall be put to beneficial use in the immediate area.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 157 Environmental Quality Review
- Southampton Board of Trustees “Blue Book” and related Town Law and regulations.

4.5 Ensure that expenditure of public funds for flooding and erosion control projects results in a public benefit.

- a. Give priority in expenditure of public funds to actions that protect public health and safety, mitigate flooding and erosion problems caused by previous human intervention, protect areas of water dependent uses, maintain the resort economy, and protect substantial public investment in infrastructure and facilities.
- b. Limit expenditure of public funds to those circumstances where public benefits exceed public cost.

4.6 Consider sea level rise when siting and designing projects involving substantial public expenditures and when approving other development.

- a. Use the most recent mid-range projection of sea level rise published by New York State or the federal government when considering the effects of sea level rise in planning, designing and siting infrastructure, and in approving development. Use the higher range of those projections for major projects.
- b. Reduce the potential effects of sea level rise by siting development as much as practicable so as to avoid the areas of the site most likely to be inundated based on New York State estimates of sea level rise within the next 20 years.
- c. Consider acquisition, when appropriate, of land areas projected to be inundated or significantly affected as a result of sea level rise and land areas adjacent to natural protective features in order to allow for migration of natural protective features. Acquisition of vegetated tidal wetlands, beaches, and dunes is particularly important in order both to retain their natural resource benefits and to provide continued public uses of those areas and resources.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 157, Environmental Quality Review
- Chapter 330 -46.2B, Zoning Adjacent Areas

Implementation Through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. Chapter 330, Zoning. Amend various sections to include a standard to avoid areas expected to be inundated by sea level rise as much as is practicable.

WATER QUALITY

Residents and businesses alike rely on clean groundwater and surface waters to support their daily activities, and yet recent research and monitoring efforts show that the short- and long-term health of surface and groundwater in the region is being significantly jeopardized by human activity. The Town and several other entities are actively engaged in identifying and eliminating and/or mitigating existing problems and preventing new ones. Examples of existing efforts include restoring shellfish and eelgrass habitat to help filter water, preserving wetlands and open space, reducing vessel-based waste through the use of pump-out boats, understanding the sources of nitrogen within the many sub-watersheds in the region, and working to identify alternatives to existing cesspools and inadequate septic systems⁶⁰.

Watershed Overview

Southampton has two primary surface watersheds (see Figure 13), one that drains north toward the Peconic Bays and another which drains south toward the Atlantic Ocean. Within the primary watersheds are sub-watersheds (see Figure 14) that discharge into many different types of waterbodies including ponds, streams and/or embayments. Each sub-watershed's land uses (residential, agricultural, commercial, industrial, etc.) may produce different sources and levels of contaminants; and the differing amounts of impervious surface (paved areas, buildings, etc.) can affect the pathway of surface water by increasing runoff and decreasing infiltration to groundwater. It is important to note that watershed boundaries extend well beyond the boundaries of this planning document—and beyond the boundaries of the Town itself—showing a clear need for regional coordination on water quality issues.

In addition to the surface waters in the Town, there is a vast groundwater system as well, which contains the Magothy Aquifer, the Lloyd Aquifer, and the Upper Glacial Aquifer. The general direction of groundwater movement is similar to that of surface water in Town, with some water draining to the Peconic and some draining to the Atlantic. In order to best manage these watersheds, it is important to understand the sources of water as well as the ways in which they move throughout Town.

Sources of Water

The waters of the estuaries and embayments in and around the Town of Southampton are affected by four sources of input: (1) Marine (saline) waters, which are the result of inflow from the Atlantic Ocean to the south and Peconic Bay to the north; (2) Fresh and estuarine water, in the Peconic River, which passes through the towns of Brookhaven, Riverhead, and Southampton, on its 12-mile path to Flanders Bay; (3) Precipitation (which may originate from clouds formed miles, or even hundreds of miles away from the Town) which enters the groundwater through the soils or moves across the landscape as runoff, often entering surface waters; and (4) Groundwater, which is recharged by rain and re-used water (*e.g.*, septic effluent, lawn watering), and which may travel from surrounding towns.

Each of these sources has specific impacts on water quality, wildlife habitat, and species of flora and fauna within the embayments.

⁶⁰ Given the importance of water quality in Southampton, the water quality issues and recommendations have been expanded upon in a Water Quality Strategy document included as Appendix B.

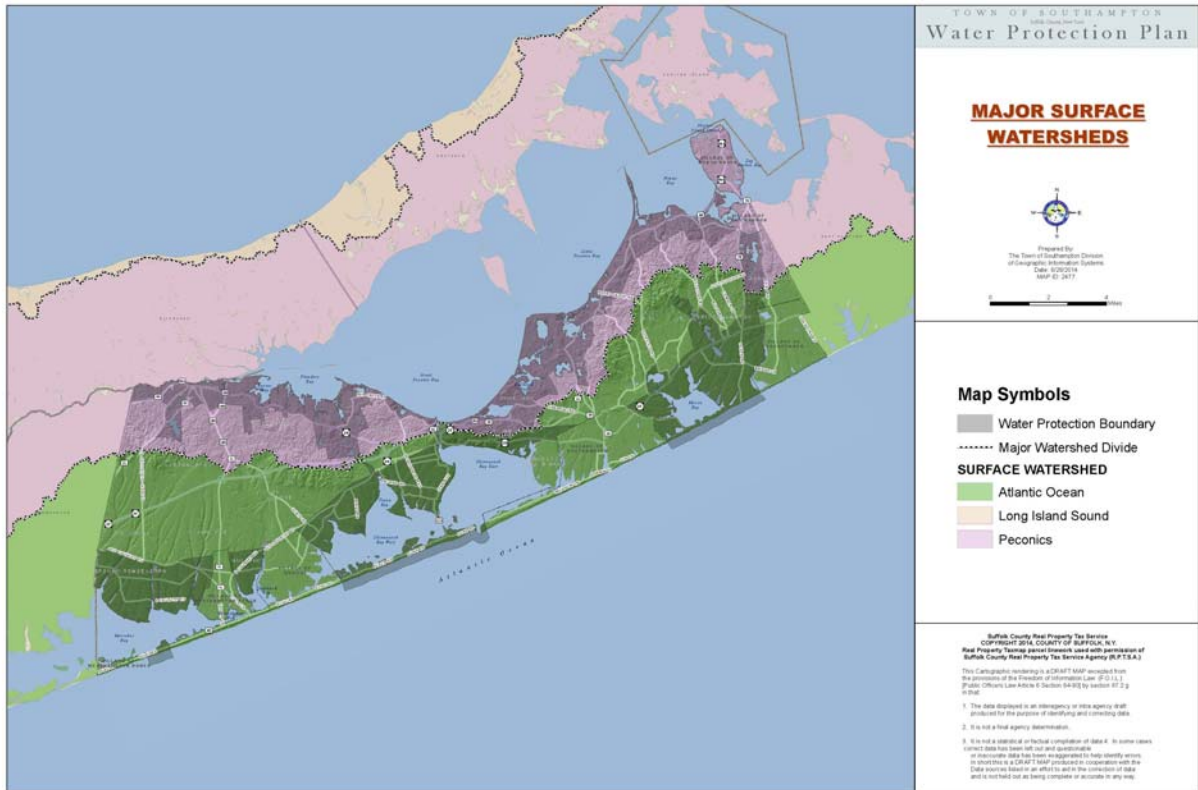


Figure 13: Major Surface Watersheds (A larger version of this map is available in Figure 3.)

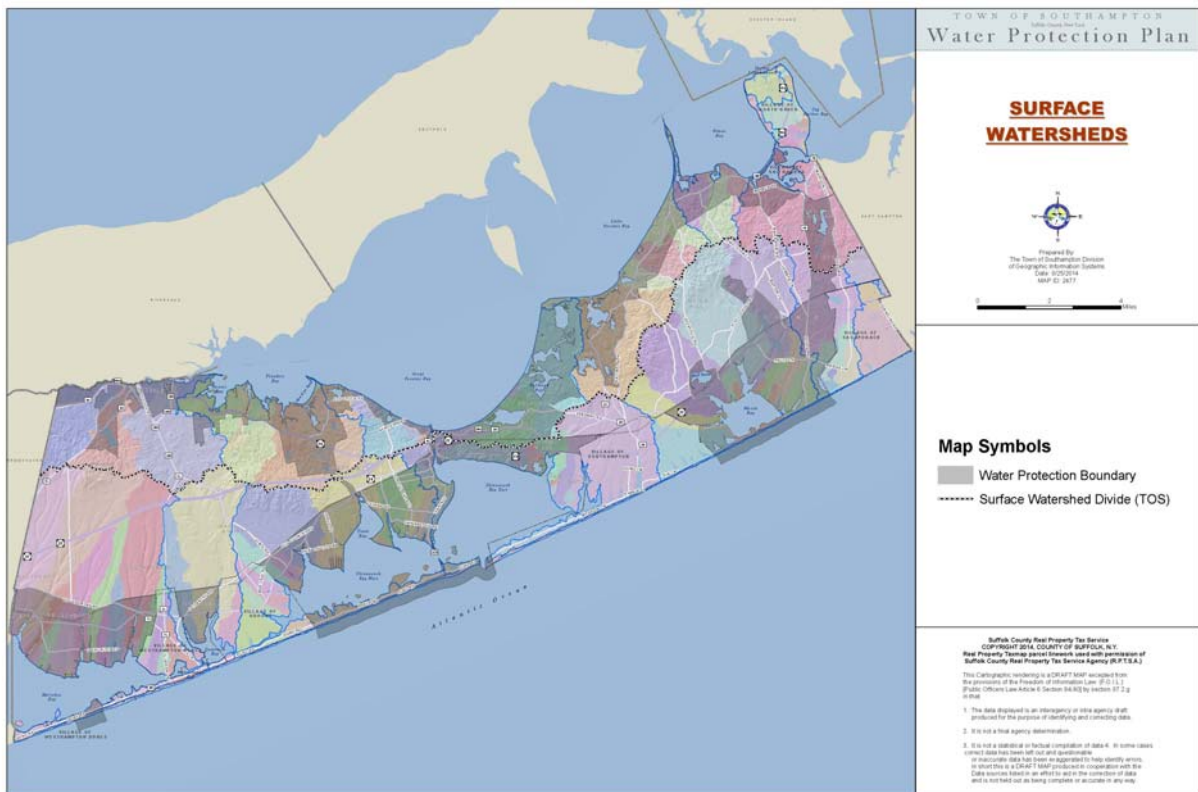


Figure 14: Surface Watersheds (A larger version of this map is available in Figure 4.)

Movement of Water

In the generally loose, sandy soils of Southampton deposited by glaciers thousands of years ago, fresh water moves in three linked, but distinct pathways:

- (1) Surface water flow may be as a defined river or stream or as sheet flow of stormwater. Some of water in this pathway may infiltrate into the groundwater but most will remain on the surface as it moves downhill to the receiving water body;
- (2) Groundwater flow which has infiltrated, or percolated, into the ground following a precipitation event: As it percolates, it eventually reaches the settled level of the water table. Like surface water, groundwater also “flows downhill” from the upper reaches of the watershed towards the receiving waterbody. As it moves, some groundwater may intersect with a fresh water body like a kettle hole pond, wetland or a stream, but much will remain underground until reaching an embayment or the ocean; and
- (3) Water may also move in the subsurface, above the normal ground water level, in a temporary flow related to short-term melting or storm conditions. The volume in this sort of flow is generally much less than the other two pathways.

Water may move from one of these pathways to another. It may also return to the atmosphere through evaporation or transpiration from plants.

Surface water moves much more rapidly than groundwater—surface water flows are often measured in feet/second or feet/minute whereas groundwater movement is more typically measured in feet/day, even in the sandy soils found in Southampton. With groundwater flow at these rates, it may take years—or even decades—for groundwater and any contaminants it may contain to reach a receiving waterbody.⁶¹

Surface waters, by their nature, tend to pick up and carry contaminants found on the surface, including silt and soil particles, pet waste, fertilizers, fuel spills, bacteria (pathogenic or otherwise), etc. Groundwater or subsurface flows generally carry only dissolved or liquid contaminants from underground sources, *e.g.*, nutrients from underground waste disposal systems (bacteria and other pathogens are typically filtered out by the soils in very short order), light-weight petroleum products (gasoline, home heating oils) leaking from underground storage tanks, or other chemical contaminants. Groundwater volume and flow may be affected by withdrawal—through wells—for domestic, commercial, or industrial uses, although the deeper the well, the less impact on groundwater flow to nearby embayments.

Management of these various contaminant pathways requires vastly differing techniques. For example, upgrading from a leaking cesspool to a standard septic system will generally prevent pathogens from entering the groundwater, but will do little to slow the flow of nutrients through the system. Shifting from a standard septic system to some more advanced treatment, such as a wastewater treatment facility, offers the possibilities of both removal of pathogens and nutrients, and the potential to direct the location of the outflow to increase recharge.

⁶¹ Maps in Berry, G. 2011. Proposed Methodology for Establishing Need for Decentralized Wastewater Upgrades Based on Environmental Conditions for Suffolk County Towns, Southampton Sample. Online at: <http://studioabarchitects.com/files/Download/11x17methodologyalltext.pdf> show the groundwater to surface water influence zones and notes that nearly half (47%) of all residential development in the Peconic Estuary watersheds is located in the 0-2 year influence zone.

Issues and Analysis

As described more fully in the Inventory and Analysis section of the SWPP, the primary sources of surface and groundwater impairment in Southampton are wastewater, stormwater, fertilizers and pesticides, and atmospheric deposition. Further stressors to water quality and quantity stem from sea level rise.

Wastewater

One of the primary water quality issues in Town is that of nutrient pollution stemming from septic systems and cesspools^{62, 63}. In 1973, Suffolk Department of Health codes were changed to require the use of septic systems instead of cesspools, but existing buildings were not required to upgrade at the time. As such, roughly 23,000 buildings built in Southampton prior to 1973 may still use cesspools, rather than septic systems⁶⁴. Effluent from these cesspools, now at least 40-years old, can leak, untreated, into the surrounding environment if they are not cleaned and maintained. If properly maintained, septic systems, by contrast, remove pathogens and offer limited removal of nutrients.

To increase the conversion to septic systems and to encourage the upgrade of failing septic systems, the Town has instituted a rebate program whereby eligible residents can receive a portion (up to 50–60%, depending on project location) of the costs of a septic upgrade. It is important to note, however, that while traditional on-site wastewater treatment systems (septic systems or cesspools) protect public health through the removal of pathogens, most are not designed to remove significant amounts of nutrients which move, relatively unimpeded, through groundwater flow into streams, rivers and embayments. To further complicate matters, even if septic systems are maintained and meet the federal nitrogen standards for safe drinking water (10 mg/l), the contaminant level for maintaining a healthy natural environment is 0.1-0.2 mg/l—well below the threshold for safe drinking water. The County maintains a list of the approved septic technologies, none of which adequately removes nitrogen to meet the contaminant level for a healthy environment. Recently, however, funding (and planning and logistical support) from the State and from two charities founded by former Mayor Bloomberg have initiated the development of the New York State Center for Clean Water Technology, which will be located in Southampton. The new center, developed by the NYS Department of Environmental Conservation, the Town of Southampton, and Stony Brook University will research new septic treatment opportunities designed to lower the cost of treatment and improve the effectiveness of removing nitrogen⁶⁵.

In the natural environment, nutrients from effluent produce an over-enrichment of the waters leading to accelerated growth of plant materials (macroscopic algae and a range of microscopic forms). This accelerated growth can have significant adverse effects on water quality, on marine life, and on human use and enjoyment of the waters. Additionally this over-enrichment of nutrients has been implicated in

⁶² Lloyd, Stephen. 2014. Nitrogen Load Modeling to Forty-three Subwatersheds of the Peconic Estuary. Online at: <https://www.conservationgateway.org/ConservationByGeography/NorthAmerica/UnitedStates/edc/Documents/Nitrogen%20load%20modeling%20to%20the%20Peconic%20Estuary%20-%20TNC%20May%202014.pdf>.

⁶³ Kinney, E.L. and Valiela, I. 2011. Nitrogen Loading to Great South Bay: Land Use, Sources, Retention, and Transportation from Land to Bay. *Journal of Coastal Research*: Volume 27, Issue 4: pp. 672 – 686.

⁶⁴ Berry, G. 2011. Proposed Method for Establishing Need for Decentralized Wastewater Upgrades based on Environmental Conditions for Suffolk County Towns, Southampton Sample. Online at: <http://studioabarchitects.com/files/Download/11x17methodologyalltext.pdf>.

⁶⁵ Wright, Michael. 2014. Bloomberg Pledges \$1 Million to East End Water Quality Research. The Southampton Press. November 5, 2014. Online at: <http://www.27east.com/news/article.cfm/East-End/85908/Bloomberg-Pledges-1-million-To-East-End-Water-Quality-Research>.

increased incidents of harmful algal blooms (*e.g.*, brown tides, rust tides, red tides) that affect both natural resources (*e.g.*, fish kills) and human health.

Another water quality consideration is that wastewater effluent also can contain traces of pharmaceuticals and personal care products. These chemicals have been shown to have impacts on the development of aquatic life, and may have impacts on human health as well.

Efforts to increase awareness of water quality impairments associated with wastewater have laid the groundwork to make significant improvements.

Stormwater

As precipitation travels through the watersheds, it picks up and transports debris, chemicals, and sediments that can impact surface water and groundwater quality. Impervious surfaces in the watershed (roofs, roads, parking lots, etc.) exacerbate runoff and the transport of pollution by minimizing areas where water can infiltrate into the ground, at which point some of the chemicals and nutrients are filtered out. Transported materials can include litter; animal waste; sediment and chemicals from farms, yards, and construction projects; and oil and grease.

The nutrients introduced via stormwater runoff have similar effects as those described above (*e.g.*, harmful algal blooms and fish kills). The introduction of chemicals and sediment can alter the development and functions of aquatic life. Litter can detract from recreational uses and create hazards for marine life. Pathogens which wash into the water can result in shellfishing and beach closures.

To address stormwater issues stemming from road runoff, Southampton has had inter-municipal non-point source pollution control program in place since the 1993 Town of Southampton Clean Water Bond Act. Hundreds of road systems have been addressed, both within the Town and the villages, through installation of road drainage and other non-structural corrective measures. Funding is provided through Town Bond Act funding, NYS Clean Water/Clean Air Bond Act funding, and annual Town drainage appropriations. Work is coordinated with village mayors and highway superintendents. The Inter-municipal Water Body Management Program is formalized through the Phase II Stormwater Management Plan.

Additionally, the Town has identified and mapped all discharges within the South Shore Estuary Reserve (SSER) and Peconic Estuary. Priority action areas have been identified based on the analysis of water quality data, land use, topography, natural resources, the DEC Priority Waterbody List, DEC Water Quality Classifications, shellfish and fin fisheries, and the likelihood of success priority assigned by the Stormwater Abatement committee and through public meetings.

Furthermore, the Capital Improvement program for nonpoint source pollution control for towns and villages has been in place since 1993. Each year, capital improvement programs for nonpoint source pollution continue to be identified, including potential projects and opportunities for instituting Best Management Practices.

Fertilizers, Herbicides, and Pesticides

The application of fertilizers, herbicides, and pesticides—both residentially and commercially—introduces chemicals and nutrients into the surface and groundwaters of Southampton. These chemicals can contribute to the development of harmful algal blooms, the loss of eelgrass, and the mortality or compromised function of some marine species (*e.g.*, lobster⁶⁶). Recent sampling of groundwater by the

⁶⁶ Spiegel, J.E., 2012. Pesticides found in LI lobsters for the first time: More study planned. The CT Mirror. July 10, 2012.

Suffolk County Department of Health Services detected traces of pesticides including Metalaxyl (a fungicide), Atrazine (an herbicide), and Imidacloprid (an insecticide) at testing sites throughout the county, including in sites in Southampton. Approximately half of the 117 pesticide-related chemicals detected in the county since 1977 are believed to be legacy compounds which persist despite the fact that they have not been used in many years⁶⁷. Efforts to minimize pesticide use should be taken now, but even so, pesticides will persist in the water for some time.

Testing of nitrate in groundwater in some agricultural areas produced results exceeding 20 mg/l (the maximum safe drinking water standard is 10 mg/l)⁶⁸.

The nitrogen in fertilizers can contribute to the algal blooms and fish kills mentioned previously; while pesticides can contaminate drinking water and can be toxic or disruptive to the development of non-targeted species, including domestic animals.

The County has already taken steps to reduce the impacts of fertilizers by banning their application between November 1st and April 1st. The County has also developed a document entitled the “Long Island Pesticide Pollution Prevention Strategy.” This document creates a blueprint for the DEC to “to evaluate pesticide usage on Long Island, identify pesticides that have the greatest potential to cause adverse impacts and work with partners to reduce or eliminate such usage or find alternatives that do not present such impacts”⁶⁹. In particular, this report focuses on strategies that prevent the introduction of harmful pesticides by altering pest management processes, encouraging the use of alternate pest management strategies, and using less-toxic products when available. These County efforts, along with Town and regional educational programs pertaining to fertilizer, pesticide, and herbicide application⁷⁰ pave the way for additional programs and policies aimed at reducing the improper use and related impacts of these chemicals.

Atmospheric Deposition

Atmospheric nitrogen is a source of contamination for the Town of Southampton, and was identified as a major source of nitrogen to the Peconic Estuary during the development of the Peconic Estuary TMDL. It is anticipated that the Federal Clean Air Act will result in a 31.3% reduction from the baseline atmospheric load by 2017 and beyond⁷¹. As addressed more fully in the Air Quality section below, recent models of nitrogen deposition in and around Southampton estimate that atmospheric deposition of nitrogen contributes 15-24% of all land-based sources of nitrogen, depending on the particular sub-watershed^{72,73,74}.

⁶⁷ New York State Department of Environmental Conservation. 2014. Long Island Pesticide Pollution Prevention Strategy. Online at: http://www.dec.ny.gov/docs/materials_minerals_pdf/fullstrategy.pdf.

⁶⁸ Berry, G. 2011. Proposed Methodology for Establishing Need for Decentralized Wastewater Upgrades Based on Environmental Conditions for Suffolk County Towns, Southampton Sample. Online at: <http://studioabarchitects.com/files/Download/11x17methodologyalltext.pdf>.

⁶⁹ New York State Department of Environmental Conservation. 2014. Long Island Pesticide Pollution Prevention Strategy. Online at: http://www.dec.ny.gov/docs/materials_minerals_pdf/fullstrategy.pdf.

⁷⁰ See the flyer mailed to residents as an example of the Town’s outreach and education efforts: <http://www.southamptontownny.gov/DocumentCenter/Home/View/1875>),

⁷¹ US EPA. 2013. Peconic Estuary TMDL Review.

⁷² Erin Kinney and Ivan Valiela. 2011. Nitrogen Loading to Great South Bay: Land Use, Sources, Retention, and Transport from Land to Bay. J. Coastal Research, V. 27, Issue 4, pp 672–686.

⁷³ Stinnette, Isabelle. 2014. Nitrogen Loading to the South Shore, Eastern Bays, NY: Sources, Impacts, and Management Options. Masters Thesis, SUNY at Stony Brook.

Sea Level Rise

In addition to threats from contamination, sea level rise will also have an impact on groundwater and surface water resources. Groundwater models used to estimate the impacts of a one-foot and two-foot increase above mean sea level indicate that, as more saltwater enters the groundwater system (essentially pushing up on the fresh water layer), the freshwater aquifer system of the South Fork will become thinner⁷⁵ and may be pushed upward. These changes to the water system may have direct effects on water quality, including:

1. The intrusion of salt water into fresh groundwater—which will reduce access to fresh water for such uses as irrigation and drinking water
2. The rise of the groundwater table, which (1) will reduce the depth between septic systems/cesspools and groundwater— this could lead to the possible inundation of existing septic systems and cesspools by groundwater, compromising treatment capabilities and allowing for the input of poorly treated or untreated waste into the groundwater system; and (2) may result in the increased discharge of groundwater into surface waters such as streams and ponds, which could flood nearby infrastructure and bring additional contaminants into contact with the groundwater system.

Additionally, sea level rise and predicted increases in storm intensity will likely lead to the introduction of contaminants and marine debris stemming from storm damage⁷⁶.

Policy 5: Protect and improve water quality and supply.

The purpose of this policy is to protect the quality and quantity of water in the Town of Southampton. Many entities, both public and private, will need to be involved if meaningful improvements in water quality are to be made.

Both water quality and water quantity are central to the Town's economy, culture, natural resources, and human health. Water quality considerations include contamination from uses of the land (*e.g.*, on-site waste disposal, fertilizer application, pharmaceuticals, pesticides, and road runoff) as well as salt water intrusion from sea level rise. Consequences of water quality impairments in Southampton are significant and include (but are not limited to) harmful algal blooms; hypoxia; reduced populations of fish and shellfish; degraded habitats, including submerged aquatic vegetation such as eelgrass; closure days for beaches; the potential for reduced enjoyment of the shoreline; and groundwater contamination.

The primary quantity consideration is the maintenance of an adequate supply of potable water in the region. Sea level rise is anticipated to pose additional quality and quantity problems such as salt water intrusion into the aquifer, impairment of septic system functioning, and shifting of the saline line in fresh and estuarine bodies.

⁷⁴ Lloyd, Stephen. 2014. Nitrogen Load Modeling to Forty-Three Subwatersheds of the Peconic Estuary. Online at: <https://www.conservationgateway.org/ConservationByGeography/NorthAmerica/UnitedStates/edc/Documents/Nitrogen%20load%20modeling%20to%20the%20Peconic%20Estuary%20-%20TNC%20May%202014.pdf>.

⁷⁵ Suffolk County Comprehensive Water Resources Management Plan, August 2010 draft. <http://www.suffolkcountyny.gov/Departments/HealthServices/EnvironmentalQuality/WaterResources/ComprehensiveWaterResourcesManagementPlan.aspx>.

⁷⁶ NOAA. 2013. Global Warming and Hurricanes. Online at <http://www.gfdl.noaa.gov/global-warming-and-hurricanes>.

5.1 Reduce nutrients to levels necessary to support a healthy ecosystem; one that allows for a harvestable sustainable fish and shellfish populations, healthy submerged aquatic vegetation, and traditional human uses in the Town's waters.

- a. Reduce the input of nutrients from all sources, including, human waste, pet waste, storm water, and fertilizers.
- b. Employ all effective means to reduce nutrients, such as, composting toilets, urine diverting toilets, denitrifying septic systems, permeable reactive barriers, sewage collection and treatment, decentralized/clustered wastewater treatment systems, storm water control, aquaculture, increased flushing of embayments, open space protection, and limits on fertilizer use.
- c. Utilize the most efficient and cost-effective combination of methods to reduce nutrients at their source, in the ground water, and in the waters of the embayments.
- d. Support the establishment of Total Maximum Daily Loads (TMDLs) for nitrogen discharges to the major estuaries within the Town. In their absence, utilize best available science, including the various sub-watershed models and available, to estimate the level of nutrient reduction required and the relative contribution of nutrients from the various sources in the watershed and manage accordingly.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 75, Water Quality Protection Fund
- Chapter 111-12, Beaches, Parks, and Waterways; Article II, Use of Waterways, Sanitation
- Chapter 138, Coastal Erosion Hazard Areas
- Chapter 140, Community Preservation Fund
- Chapter 150-5.1, Dogs and Other Animals
- Chapter 158, Environmental Savings Fund
- Chapter 177, Septic System Rebate and Incentive Program
- Chapter 220-9, Manufactured Home Communities; Public health, safety and welfare requirements
- Chapter 231, Nature Preserve
- Chapter 243, Old Filed Maps
- Chapter 247, Open Space
- Chapter 285, Stormwater Management and Erosion and Sediment Control
- Chapter 285A, Storm Sewers
- Chapter 292-6, Subdivision of Land; Article III, General Application Procedures, Minor review procedures

- Chapter 292-21, Subdivision of Land; Final Plat for Major Review, Drainage plan and street profiles
- Chapter 292, Subdivision of Land; Article X Design standards, Preservation and protection of natural environment
- Chapter 324, Western General Environmental Impact Statement
- Chapter 325, Wetlands
- Chapter 330, Zoning. In particular:
 - ◆ Chapter 330, Zoning; Article II, Residential Districts
 - ◆ Chapter 330, Zoning; Article III, Senior Citizen Zone
 - ◆ Chapter 330, Zoning; Article IV, Multifamily Planned Residential Development District
 - ◆ Chapter 330, Zoning; Article X, Agricultural Overlay District
 - ◆ Chapter 330, Zoning; Article XII, Aquifer Protection Overlay District
 - ◆ Chapter 330-79, Zoning; Article XV, Supplemental Use and Dimensional Regulations, Agriculture, gardening, and animal husbandry
 - ◆ Chapter 330, Zoning; Article XVII, Special Exception Uses
 - ◆ Chapter 330, Zoning; Article XXVI, Planned Development District
 - ◆ Chapter 330, Zoning; Article XXIV, Central Pine Barrens Overlay District
 - ◆ Chapter 330, Zoning; Article XXV, Residential Receiving Area District

Implementation Through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. Chapter 177. Amend Chapter 177 to allow upgrades that, at a minimum, meet the current Suffolk County Department of Health Services requirements. As feasible, upgrades qualifying for these funds should be encouraged to go above and beyond the standards required by the County in order to further reduce nitrogen input to ground and surface water from septic systems.
2. Consider developing and implementing a Cesspool Removal Act, similar to the act enacted in Rhode Island in 2007⁷⁷. Such an Act would remove (anywhere in Town, or in certain prioritized areas such as those in the 0-2 year groundwater influence zone) failed cesspools and those cesspools serving a non-residential facility or multi-family dwelling. Additionally, this Act should call for the removal of all other cesspools within a certain distance (in RI, that distance was 200 feet) of the inland edge of all shoreline features bordering tidal water areas; within 200 feet of all public wells; and within 200 feet of a water body with an intake for a drinking water supply. This Act could also stipulate an inspection and replacement timetable.
3. Require that a septic system or cesspool be inspected when the title of the property served by the system/cesspool is transferred. As an example, in Massachusetts, State law requires

⁷⁷ See language at: <http://www.dem.ri.gov/programs/benviron/water/permits/isds/pdfs/cessfaqs.pdf>, <http://www.nbnerr.org/cesspools.htm>.

that an inspection be conducted no more than three years prior to the transfer of title⁷⁸. An inspection would include the evacuation and removal of septage and the subsequent reporting by a septage collector that is licensed by the Suffolk County Department of Health Services. Funds from the Water Quality Protection Fund could be used to help defray costs to parcel owners. As part of this, develop and maintain an inventory of the type of system at each dwelling, along with the date of last inspection. This inventory may be useful in helping to prioritize locations for future upgrades.

4. Increase the distance required from the base of onsite septic systems to groundwater (add two feet to the county minimum). Allow exemptions due to hardship or enhanced treatment.
5. Consider developing a Town-wide wastewater treatment district.
6. Consider creating a Town-wide water quality district, focusing on areas of highest need (*e.g.*, sub-watersheds identified as having among the highest nitrogen contribution; and/or areas with small lots in older communities with more limited resources). Within the district, levy an annual fee to use toward rebates for enhanced nitrogen systems.
7. Consider current subdivision regulations and how they may be amended to progress toward the goal of creating clustered denitrification systems for new neighborhoods or require the use of the most feasible approved technologies and strategies to reduce the input of nutrients. Consider the model provided by the Town of Falmouth, MA, where the subdivision review includes limiting total nitrogen concentrations from wastewater discharge⁷⁹.

Implementation Through Projects:

1. Building on the State's existing list of impaired waterbodies, work with the Town's GIS Department to conduct additional studies to better understand the contribution of nutrients to each embayment (by watershed/sub-watershed, and by source(s) of nutrients). Work has already been done in the Peconic Estuary⁸⁰, the Great South Bay⁸¹; and Shinnecock and Moriches Bays⁸². Update the model every five years to track changes. Use the results of these studies to seek funding and address impacts.
2. Prioritize areas to target for nitrogen reduction. As part of this, advance the approach proposed by Peconic Green Growth for developing and implementing a strategy to reduce nitrogen through upgrading septic systems and/or installing clustered decentralized systems in the areas with the greatest influence on water quality, such as Flanders, Noyac, and North Sea. Also as part of this, use the results of sub-watershed models of nitrogen sources and concentrations to target areas most appropriate for nitrogen removal through septic upgrades, clustered systems, and other innovative technologies.

⁷⁸ See 310 CMR 15.310.

⁷⁹ See regulation at:

<http://ecode360.com/9075609?highlight=coastal%20pond%20overlay,coastal%20ponds,coastal%20pond,overlay,pond#9075609>.

⁸⁰ Lloyd, Stephen. 2014. Nitrogen Load Modeling to Forty-three Subwatersheds of the Peconic Estuary. Online at: <https://www.conservationgateway.org/ConservationByGeography/NorthAmerica/UnitedStates/edc/Documents/Nitrogen%20load%20modeling%20to%20the%20Peconic%20Estuary%20-%20TNC%20May%202014.pdf>.

⁸¹ Kinney, E.L., Valiela, I. 2011. Nitrogen Loading to Great South Bay: Land Use, Sources, Retention, and Transport from Land to Bay. *Journal of Coastal Research* Volume 27, Issue 4: pp. 672 – 686.

⁸² Stinnette, Isabelle. 2014. Nitrogen Loading to the South Shore, Eastern Bays, NY: Sources, Impacts, and Management Options. Masters Thesis, SUNY at Stony Brook.

3. Explore opportunities to use a clustered community wastewater treatment system for each of the Town's business districts.
4. Explore opportunities to increase flushing within embayments and coastal ponds as appropriate. As part of this effort, understand potential impacts (positive and negative) of increasing flushing, and work to reinstate the line item for dredging in the Town budget.
5. Support Suffolk County's efforts to approve the use of alternative denitrification systems by collaborating on research projects, assisting with setting water quality goals, helping to identify grants and low-interest loan options to offset the cost of advanced systems, and providing opportunities to pilot technologies and train installers.
6. Develop a Southampton Comprehensive Wastewater Management Plan⁸³.
7. Pursue sewerage where feasible (*e.g.*, in the Flanders/Riverside Corridor (within scope of the SWPP planning area) and in the Village of Southampton (outside of the SWPP planning area)). Consider alternatives in target areas with non-conforming systems that affect groundwater (*e.g.* Flanders/Riverside or Village of Southampton).
8. Collaborate with the Cornell Extension Service to conduct a pilot project exploring the feasibility and impacts of installing permeable reactive barriers to treat groundwater with high nutrient concentrations before it reaches Southampton coastal waters.
9. Continue to work with the State and County to establish and implement pollution prevention Total Maximum Daily Loads (TMDLs) for waterways identified as impaired⁸⁴.
10. Work with the Trustees and Stony Brook School of Marine and Atmospheric Sciences (SOMAS) to develop a shellfish cultivation, eelgrass restoration, and nitrogen reduction program in order to improve water quality in coastal embayments (see: Falmouth Comprehensive Wastewater Management Plan; Incorporating Shellfish Bed Restoration into a Nitrogen TMDL Implementation Plan, available at http://www.coonamessettfarm.com/sitebuildercontent/sitebuilderfiles/Incorporating_Shellfish_Bed_Restoration_into_Nitrogen_TMDL_Implementation_Plan.pdf).
11. Establish comprehensive nutrient management plans and/or implement best management practices to protect water quality while maintaining the economic viability of the Town's farms.
12. Continue efforts to promote STOP day for pharmaceuticals and other efforts toward their proper disposal.
13. Assess existing stormwater and wastewater infrastructure to understand the potential impacts from increased storm activity and sea level rise (*e.g.*, inundation in coastal areas, increased runoff).
14. Support the existing efforts of groups such as the Town Trustees, Cornell Cooperative Extension, the Sea Scouts, the Shinnecock Bay Restoration Program, the Shinnecock

⁸³ Potential models are the Cape Cod Draft 208 Update, available at:

http://www.capecodcommission.org/resources/initiatives/208_Draft/CCC_208_Plan_Update-Full_Draft_sm.pdf; Falmouth, MA CWMP, available at:

<http://www.falmouthmass.us/deppage.php?number=521>; and the Brewster Water Resources Management Plan, available at:

http://www.horsleywitten.com/brewsterWRMP/reports/130128_Final%20WRMP%20Report_Brewster.pdf

⁸⁴ A potential model for this work may be seen in the efforts of the MA South Coastal Watershed (see:

<http://www.mass.gov/dep/water/resources/scoast11.pdf>).

Nation, The Nature Conservancy, and Stony Brook School of Marine and Atmospheric Sciences (SOMAS), who are engaged in programs to improve water quality and habitat through the restoration of shellfish and eelgrass.

15. Work with the Nassau Suffolk Landscape Gardeners Association, the Cornell Cooperative Extension, and lawn-care businesses to promote environmentally-friendly landscaping practices.
16. Work with Suffolk County and Peconic Green Growth to identify those septic systems whose capabilities might be impaired with sea level rise and increased storm activity. Work to ensure that these systems do not impair water quality as a result of storm events and sea level rise. Current research in Rhode Island may yield important information on types of technologies best suited for at-risk systems⁸⁵.
17. Support efforts to develop the Conscience Point Maritime Center at the site of the former Conscience Point Inn. The Maritime Center is in the early planning stages, and is likely to include a hatchery, a learning center, and historical information about the Shinnecock Nation and the baymen. This would be an excellent venue to also highlight the water-quality-related threats to shellfish, eelgrass, and the Town's maritime culture and economy. As part of this, the Center should provide visitors with suggested actions they can take to improve water quality (*e.g.*, get involved in shellfish gardening programs, participate in coastal cleanups, have septic tanks inspected, maintain native vegetation, use fertilizers responsibly, etc.).
18. Develop watershed maps that artistically portray the significance of watersheds and convey information about human impacts to water quality within the watersheds. Use the East Hampton Trails Maps as an example.
19. Identify the sources and amounts of nutrients being discharged into the waterbodies of the Town. Define the amounts of nutrients being discharged from specific watersheds/sub-watersheds.
20. Define the nutrient target loads of the coastal waterbodies.
21. Define the flushing rates of the waterbodies.
22. Define and quantify the impacts (environmental and economic) of nutrient enrichment and the impacts of emerging pollutants in the coastal waterbodies.
23. Identify the routes taken for the nutrient input (*e.g.*, ground water, stormwater runoff).
24. Prepare new, and implement existing watershed management plans to address the needs and mechanisms to reduce nutrient input.
25. Identify watersheds/sub-watersheds that, through future development, may cause elevated nutrient levels in excess of the TMDLs, and consider options to either limit future development or to take action to reduce nutrient discharge.
26. Prepare a build-out plan for the areas of the town subject to future development to assess the potential for future nutrient inputs.
27. Consider all options for treatment of wastewater to remove nutrients prior to discharge to either coastal waters or groundwater. Address both existing "permissible" technologies and those potentially "permissible" in the future.

⁸⁵ See <http://www.ecori.org/climate-change/2013/8/29/is-your-septic-system-climate-change-ready.html> for more information.

28. Continue to identify impacts to water quality and living marine resources due to stormwater, *e.g.*, nutrients, other pollutants, sedimentation, etc.

Implementation Through Proposed Administrative Changes or Actions:

1. Explore opportunities to offer low-interest loans to homeowners with non-conforming septic systems for septic improvements. Some options might include working with the County to develop a program to provide low-interest loans, identifying banks that would offer low-interest loans for the specific purpose of upgrading systems, and working with the State to provide a tax credit for septic upgrades. For an example of such a program, see: <http://www.mass.gov/eea/agencies/massdep/water/grants/title-5-septic-systems.html>).
2. Continue to support efforts to educate residents about the importance of septic system maintenance. Education about septic systems is already conducted through outreach related to the rebate program and through public forums such as those hosted by the Green Committee. Additional outreach and education may be achieved through partnerships with groups such as the Peconic Bay Keeper, Defend H2O, the Peconic Estuary Program, the South Shore Estuary Reserve, the Long Island Clean Water Partnership, the Shinnecock Bay Restoration Program, Suffolk County, Peconic Green Growth, TNC, and neighboring towns and villages.
3. Continue to enforce occupancy limits, pursuant to Town Code §330-108, "Limitations on occupancy of dwellings and dwelling units," in order to prevent septic system failures from residences that exceed the occupancy limit.
4. Ensure adherence with SPDES permits.
5. Review final Suffolk County Comprehensive Water Resources Management Plan, when complete,⁸⁶ and implement relevant recommendations.
6. Support ongoing water quality monitoring efforts and explore opportunities to expand monitoring. Expansion would include increasing the number of monitoring sites as well as looking for traces of pharmaceuticals and personal care products.
7. Implement the wastewater recommendations of the Town's Climate Action Plan, when complete.
8. Encourage the Suffolk County Department of Health Services to create and implement new local laws/regulations pertaining to septic system standards that remove nitrogen (more stringent than current County standards) in order to protect natural resources. One approach would be to adopt more stringent standards that would apply to the entire County. An alternative strategy might be to adopt more strict nitrogen standards in areas identified to be especially "nitrogen sensitive" such as areas surrounding important drinking water resources (*e.g.*, the Aquifer Protection Overlay District), and areas within the 25-year influence zone for contributing groundwater to surface water (see Berry, 2011). Work with the New York State Clean Water Coalition at Stonybrook to identify possible technologies to achieve the new standards. (The Citizens Campaign for the Environment (<http://www.citizenscampaign.org/campaigns/nitrogen-pollution.asp>) and the Long Island

⁸⁶ Suffolk County. 2010. Suffolk County Comprehensive Water Resources Management Plan, August 2010 draft. Online at: <http://www.suffolkcountyny.gov/Departments/HealthServices/EnvironmentalQuality/WaterResources/ComprehensiveWaterResourcesManagementPlan.aspx>.

- Clean Water Partnership (http://www.citizenscampaign.org/special_features/long-island-water-partnership.asp) advocate for a change in nitrogen standards from 10 mg/l to 2 mg/l.)
9. Continue to fund the Septic System Rebate and Incentive Program through the Water Quality Protection Fund. To increase the efficacy of this program, give priority to incentivizing the installation of advanced systems in priority locations once the advanced systems are approved by Suffolk County.
 10. Where areas where seasonal variation in the water table reduce depth to groundwater to below ten feet, ensure that test hole data be taken during those shallow depth to groundwater conditions.
 11. Consider establishing a Wastewater Management and Water Quality Advisory Committee to provide oversight and recommendations to the Town Supervisor/Town Board.
 12. Limit or require BMPs for irrigation infrastructure, especially in areas using fertilizer.
 13. Work with the County to ensure that high-volume coastal businesses (*e.g.*, restaurants) have septic systems in place to meet the actual needs of the facility. Require inspections of the septic systems, and enforce occupancy limits to ensure that the systems can adequately meet the demands.

5.2 Manage stormwater to improve water quality for habitat, ecosystem, and recreation purposes and for drinking purposes.

- a. Meet the requirements of minimum Measures 4 and 5 of the New York SPDES General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4s).
- b. Require land development activities to conform to the substantive requirements of the New York SPDES General Permit for Stormwater Discharges from Construction Activity.
- c. Control, restrict or prohibit activities that alter natural drainage systems, floodplains, and other natural protective features—including wetlands, which contribute to the accommodation of floodwaters and retention of sediment.
- d. Control, restrict, or prohibit land use activities which increase non-point source pollution due to stormwater runoff that result in discharge onto public lands, neighboring properties, or natural protective features which would degrade local water quality.
- e. Assure that land and water uses in the Town are designed and conducted using best management practices to control flooding, stormwater runoff and discharge onto public lands, neighboring properties, or natural protective features.
- f. Promote the recharge of stormwater into the fresh water aquifer to protect the drinking water supply and minimize salt water intrusion.
- g. Minimize the total annual volume of stormwater runoff that flows from any specific site during and following development and redevelopment to the maximum extent practicable.
- h. Protect the biological, ecological, and other beneficial functions of water bodies from the adverse impacts of stormwater runoff.
- i. Establish provisions to ensure that there are adequate funding mechanisms, including financial security or surety, for the proper review, inspection and long-term maintenance of stormwater facilities and practices implemented in adherence to this policy.

- j. Require preparation of a stormwater pollution prevention plan (SWPPP) for land development or redevelopment as required by Chapter 285.
- k. Promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, hazardous waste, sediment, and other contaminants into local watersheds and water bodies.
- l. Retrofit or upgrade priority stormwater drainage systems to allow for the removal of contaminants prior to their discharge into coastal waters.
- m. Utilize alternative stormwater management techniques (*i.e.*, low impact site design).

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 157, Environmental Quality Review
- Chapter 158, Environmental Savings Fund
- Chapter 243, Old Filed Maps
- Chapter 285, Stormwater Management and Erosion and Sediment Control
- Chapter 285A, Storm Sewers
- Chapter 292, Subdivision of Land; Article X, Design Standards
- Chapter 324, Western General Environmental Impact Statement
- Chapter 325, Wetlands
- (Chapter 325A, Wetlands, Freshwater)
- Chapter 330, Zoning; Article IV, Multifamily Planned Residential District (MFPRD)
- Chapter 330, Zoning; Article X, Agricultural Overlay District
- Chapter 330, Zoning; Article XVII, Special Exception Uses
- Chapter 330, Zoning; Article XXIV, Central Pine Barrens Overlay District
- Chapter 330, Zoning; Article XXVI, Planned Development District
- Chapter 330-308, Zoning; Article XXVII, Wireless Communications Transmission Support Structures and Antennas, Site design standards
- Chapter 111, Beaches, Parks, and Waterways; Article II Use of Waterways

Implementation Through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. Chapter 285. Amend the Stormwater Pollution Prevention Plan (SWPPP) to require runoff control practices that would result in no net increase of nutrient and sediment pollution from new development (see: policies of the Philadelphia Water Department) and reduce the threshold for a SWPPP from one acre to [number to be determined].

Implementation Through Projects:

1. Conduct educational activities to minimize the impacts of stormwater, including:
 - a. The funding and implementation of demonstration projects to educate residents about opportunities to capture stormwater on their own property (*e.g.*, rain gardens, etc.).
 - b. The establishment of an education program to inform residents about the importance of reducing litter and keeping streets and sidewalks free of debris.
 - c. The implementation of training programs for homeowners and landscapers on the latest information regarding proper fertilization techniques.
2. Retrofit or upgrade priority stormwater drainage systems to allow for the removal of contaminants prior to their discharge into coastal waters. Bittersweet Land/Beach has been cited as a particular example.
3. Assess existing stormwater and wastewater infrastructure to understand the potential impacts from increased storm activity (*e.g.*, inundation in coastal areas, increased runoff).
4. Work with the State and County to establish pollution prevention Total Maximum Daily Loads (TMDLs) for waterways identified as impaired.
5. Work with relevant agencies, such as the Suffolk County Department of Health Services, US EPA, etc., to enhance the bathing beach monitoring program. This could include the development of predictive water quality models (see: <http://cesn.org/projects/charles.php>) and laboratory analyses with faster results.
6. Develop watershed maps that artistically portray the significance of watersheds and convey information about human impacts to water quality within the watersheds. Use the East Hampton Trails Maps as an example.
7. Calculate the current percentage of impervious surfaces in Town and set a target percentage to achieve. Develop new regulations, policies and programs to achieve that target percentage. Consider lower target percentages in particularly sensitive areas (*e.g.*, aquifer recharge zones, coastal and riparian areas).

In 2001, calculations by the USGS estimated Southampton's percent impervious surface cover as 7.6%⁸⁷. Research suggests that stream quality declines when impervious cover reaches 10%, and severe degradation occurs above 25%^{88,89}. Water quality in larger waterbodies may be able to tolerate higher percentages of impervious surface before experiencing degradation.

Impervious surface calculations can be made using GIS data or by interpreting satellite imagery or aerial photographs⁹⁰.

Implementation Through Proposed Administrative Changes or Actions:

⁸⁷ Peconic Estuary Program. 2005. PEP Talk. Volume 2, Issue 4. Online at: <http://www.peconicestuary.org/newsletters/October-2005.pdf>.

⁸⁸ Peconic Estuary Program. 2005. PEP Talk. Volume 2, Issue 4. Online at: <http://www.peconicestuary.org/newsletters/October-2005.pdf>.

⁸⁹ Kaplan, M., Ayers, M. 2000. Impervious Surface Cover Concepts and Thresholds.

⁹⁰ For more information, see: http://nemo.uconn.edu/tools/impervious_surfaces/pdfs/NEMO_tech_3.pdf.

1. Maintain existing storm drains with a regular cleaning schedule and conduct street cleaning as recommended by the EPA⁹¹. Create a stormwater drainage management program that identifies priority areas, cleaning schedule, etc. and consider dedicated funding source.
2. Ensure adherence with SPDES permits.
3. Review final Suffolk County Comprehensive Water Resources Management Plan, when complete,⁹² and implement relevant recommendations.
4. Work with relevant agencies, such as the Suffolk County Department of Health Services, US EPA, etc., to enhance bathing beach monitoring program. This could include the development of predictive water quality models (see: <http://cesn.org/projects/charles.php>) and laboratory analyses with faster results.
5. Support ongoing water quality monitoring efforts and explore opportunities to expand monitoring. Expansion would include increasing the number of monitoring sites as well as looking for traces of pharmaceuticals and personal care products.
6. Continue to implement best management practices to protect water quality while maintaining the economic viability of the Town's farms. Recognize adaptation as the key component for continuance of agriculture so that any consideration that affects agricultural production maintains flexibility for changing circumstances and practices. Work with the New York Agricultural Environmental Management Program, as they help farmers develop, implement, and evaluate conservation plans that protect natural resources while allowing farms to meet business objectives.
7. Implement the stormwater recommendations of the Town's Climate Action Plan, when complete.
8. Consider establishing a Wastewater Management and Water Quality Advisory Committee to provide oversight and recommendations to the Town Supervisor/Town Board.
9. Utilize stormwater best management practices (*e.g.*, vegetated infiltration swales and pervious pavement) to reduce direct stormwater input to water bodies, both for new projects and for modifications to existing developments.

5.3 Limit the adverse impacts of watershed development on water quality and quantity.

- a. Ensure that watershed development does not impair natural characteristics of drainage systems, floodplains, areas that are particularly susceptible to erosion and sediment loss, and wetland extent and function.
- b. Limit the impacts of individual development projects (*e.g.*, impervious surface coverage, sediment loss, changes to stream velocity and temperature) to prevent both site-specific and cumulative water quality impacts upon the watershed which would result in the significant impairment of surface or groundwater resources.

⁹¹ For more information, see:

<http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm?action=browse&Rbutton=detail&bmp=99>.

⁹² Suffolk County. 2010. Suffolk County Comprehensive Water Resources Management Plan, August 2010 draft. Online at:

<http://www.suffolkcountyny.gov/Departments/HealthServices/EnvironmentalQuality/WaterResources/ComprehensiveWaterResourcesManagementPlan.aspx>.

- c. Utilize agricultural best management practices, where applicable, including technical assistance, financial assistance, education, training, technology transfer, and demonstration projects.

Implementation through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 75, Water Quality Protection Fund
- Chapter 140, Community Preservation Fund
- Chapter 157, Environmental Quality Review
- Chapter 158, Environmental Savings Fund
- Chapter 231, Nature Preserve
- Chapter 243, Old Filed Maps
- Chapter 247, Open Space
- Chapter 285, Stormwater Management and Erosion and Sediment Control
- Chapter 285A, Storm Sewers
- Chapter 285A, Appendix A, Required SWPPP Components by Project Type
- Chapter 292, Subdivision of Land
- Chapter 308, Vegetation, Protection of
- Chapter 324, Western General Environmental Impact Statement
- Chapter 325, Wetlands
- Chapter 330-30, Zoning; Business Districts, General regulations
- Chapter 330, Zoning; Article XVII, Special Exception Uses
- Chapter 330-184, Zoning; Administration and Enforcement, Site plan application procedure
- Chapter 330, Zoning; Article XXIV, Central Pine Barrens Overlay District
- Chapter 330, Zoning; Article XI, Old Filed Map Overlay District
- Chapter 330, Zoning; Article XXV, Residential Receiving Area District
- Chapter 330-308, Zoning; Article XXVII, Wireless Communications Transmission Support Structures and Antennas, Site design standards

Implementation Through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. Chapter 330, Zoning; Article XII, Aquifer Protection Overlay District. Add language to prohibit residential underground fuel storage tanks.
2. Chapter 330, Zoning; Article XII, Aquifer Protection Overlay District. Add language to limit the amount of impervious surface allowed within a development project.

3. In Chapter 330, Zoning; Article XII (“Aquifer Protection Overlay District”), expand the Overlay District to protect aquifer recharge areas in the eastern and western portions of the Town. Areas for particular consideration include Tuckahoe Woods and Shinnecock Hills, as well as additional locations identified as Critical Environmental Areas (see list at: <http://www.dec.ny.gov/permits/25153.html>), and locations identified as Critical Natural Resource Areas for the Peconic Estuary.
4. Enact Town-wide or area-specific vegetation preservation requirements to maintain existing vegetation and reduce potential lawn areas for new development, similar to Town Code §330-67, which only applies within the Aquifer Protection Overlay District. As part of this, consider developing a shorefront overlay district to require vegetation preservation for water quality purposes⁹³. If area-specific requirements are developed, create maps to help developers and homeowners comply with requirements. Specifically consider vegetation preservation requirements in Tuckahoe Woods, Noyack, Roses Grove, and Shinnecock Hills, as well as in the areas identified as Critical Environmental Areas in Town (see list at: <http://www.dec.ny.gov/permits/25153.html>).
5. Change Town regulations to discourage the building of man-made ponds Town-wide, except for in cases where ponds are used for agriculture or irrigation.
6. Consider expanding the use of Community Preservation Funds to include projects addressing water quality.

Implementation Through Projects:

1. Explore opportunities to reuse purified wastewater. As part of this, identify incentives to encourage re-use and ensure that recharge does not impact the effectiveness of nearby wastewater treatment systems.

Implementation Through Proposed Administrative Changes or Actions:

1. Work with the Suffolk County Soil and Water Conservation District to apply for funding opportunities through the New York State Agricultural Nonpoint Source Abatement and Control Program.
2. Continue to monitor contaminated groundwater plumes.
3. Establish a TMDL workgroup for local waterways, regardless of their status with respect to the New York State 2012 Section 303(d) List. A TMDL workgroup could include elected representatives from the Town, planning department staff, conservation staff, waste water treatment representatives, local watershed groups, citizens, water authorities, farmers, and other stakeholders working together to identify priority waterways and determine how to improve water quality in these waterways (see: work done by York County, PA TMDL workgroup).

⁹³ For examples of possible code language, see East Hampton Town Code for their Harbor Protection Overlay District Language, §255 3-75(D)). Language for a sample code is also available in the Nature Conservancy report entitled: Native Vegetation Protection in the Peconics: A simple and effective approach. The Nature Conservancy, 2012. Native Vegetation Protection in the Peconics: A simple and effective approach.

4. Continue to work to acquire and protect available open space independently and in coordination with not-for-profit organizations, the State, the County, and others as appropriate.
5. Consider establishing a Wastewater Management and Water Quality Advisory Committee to provide oversight and recommendations to the Town Supervisor/Town Board.

5.4 Limit the adverse impacts of pesticide use on water quality.

- a. Employ strategies to ensure minimal impairment to water quality stemming from pesticide use⁹⁴ (e.g., application buffers, overlay districts, etc.).

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 292-39, Subdivision of Land; Preservation and protection of the natural environment
- Chapter 325, Wetlands
- Chapter 330-68, Zoning; Restriction of fertilized vegetation
- Chapter 330-248, Zoning; Specific planned development

Implementation Through Projects:

1. Encourage homeowners to reduce their use of pesticides and fertilizers through targeted education on lawn and garden maintenance and care. Examples of strategies include encouraging the use of native plants and grasses, the use of Integrated Pest Management (IMP), and the use of slow-release fertilizers, if any. Coordinate this effort with nurseries and with the work being done by the Town's Sustainable Southampton Green Advisory Committee, the Office of Energy and Sustainability, and other non-profit organizations.
2. Work with the Nassau Suffolk Landscape Gardeners Association, the Cornell Cooperative Extension, and lawn-care businesses to promote environmentally-friendly landscaping practices.
3. Conduct an inventory of existing natural vegetation and develop regulations and incentives to ensure that the vegetation is protected. As part of this, consider developing a vegetation protection overlay district. (See Policy 5.3 for more information.)

Implementation Through Proposed Administrative Changes or Actions:

1. Implement the recommendations of the Long Island Pesticide Pollution Prevention Strategy, which presents multiple strategies to address pollution from pesticides⁹⁵.
2. Strongly encourage agricultural operators to partner with Suffolk County Agricultural Stewardship Program in order to obtain guidance on ways to reduce impacts from fertilizer and pesticide use.

⁹⁴ Strategies may differ for agricultural and non-agricultural lands.

⁹⁵ The Plan is available at: http://www.dec.ny.gov/docs/materials_minerals_pdf/fullstrategy.pdf.

3. Review final Suffolk County Comprehensive Water Resources Management Plan, when complete,⁹⁶ and implement relevant recommendations.
4. Consider establishing a Wastewater Management and Water Quality Advisory Committee to provide oversight and recommendations to the Town Supervisor/Town Board.

5.5 Protect and conserve the quality and quantity of potable water.

- a. Limit discharges of pollutants which are likely to contribute to contravention of surface and groundwater quality standards for potable water supplies.
- b. Prevent depletion of existing potable water supplies by limiting saltwater intrusion in the aquifer and estuaries through conservation methods or restrictions on water supply use and withdrawals and allowing for recharge of the aquifer.
- c. Limit cumulative impacts of development on groundwater recharge areas to ensure replenishment of potable groundwater supplies. Strategies include: allowing low-density residential development in the aquifer protection overlay zone, using transferrable development rights in key locations, minimizing the clearing of vegetation, limiting the addition of impervious surfaces, restricting or eliminating intensive quasi-public uses in the Aquifer Overlay Zone, and prohibiting residential underground fuel storage tanks in the Aquifer Protection Overlay Zone.
- d. Safeguard groundwater resources by protecting aquifer recharge areas in the eastern and western portions of the Town.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 75, Water Quality Protection Fund
- Chapter 140, Community Preservation Fund
- Chapter 158, Environmental Savings Fund
- Chapter 157, Environmental Quality Review
- Chapter 177, Septic System Rebate and Incentive Program
- Chapter 205-13, Landfills, Transfer Stations, and Scavenger Waste; Inspections
- Chapter 231, Nature Preserve
- Chapter 243, Old Filed Maps
- Chapter 244, Transfer of Development Rights Certificate Program
- Chapter 247-8, Open Space; Farmland and Watershed Protection
- Chapter 285, Stormwater Management and Erosion and Sediment Control

⁹⁶ Suffolk County. 2010. Suffolk County Comprehensive Water Resources Management Plan, August 2010 draft. Online at: <http://www.suffolkcountyny.gov/Departments/HealthServices/EnvironmentalQuality/WaterResources/ComprehensiveWaterResourcesManagementPlan.aspx>.

- Chapter 285A, Storm Sewers
- Chapter 292-11, Subdivision of Land; Planned residential development
- Chapter 292-37, Subdivision of Land; Drainage
- Chapter 292-39, Subdivision of Land; Preservation and protection of natural environment
- Chapter 308, Vegetation, Protection of
- Chapter 317-8, Moratorium on Conversions to Residential Condominiums or Cooperatives; Applications that may be exempted
- Chapter 324, Western General Environmental Impact Statement
- Chapter 325, Wetlands
- Chapter 330-7, Zoning. Transfer of permitted residential development rights
- Chapter 330-36, Zoning. Industrial District, Planned industrial park
- Chapter 330, Zoning; Article X, Agricultural Overlay District
- Chapter 330-61, Zoning. Special permit for reduction of lot area requirement
- Chapter 330, Zoning; Article XIII, Aquifer Protection Overlay District
- Chapter 330, Zoning; Article XVII, Special Exception Uses
- Chapter 330, Zoning; Article XXIV, Central Pine Barrens Overlay District
- Chapter 330-248, Zoning. Specific planned development districts
- Chapter 325 Wetlands

Implementation Through Projects:

1. Support efforts to study the impacts of sea level rise to the aquifers in Southampton⁹⁷.

Implementation Through Proposed Administrative Changes or Actions:

1. Attend the open meetings of the Long Island Commission for Aquifer Protection.
2. Review final Suffolk County Comprehensive Water Resources Management Plan, when complete,⁹⁸ and implement relevant recommendations.
3. Consider establishing a Wastewater Management and Water Quality Advisory Committee to provide oversight and recommendations to the Town Supervisor/Town Board.
4. Identify all (above-ground and buried) fuel storage tanks that might be prone to storm damage or corrosion from salt water. Develop a strategy to remove/repair/replace systems as appropriate.

⁹⁷ A similar study is underway on Cape Cod: <http://www.apcc.org/sealevelrise/index.html>.

⁹⁸ Suffolk County. 2010. Suffolk County Comprehensive Water Resources Management Plan, August 2010 draft. Online at: <http://www.suffolkcountyny.gov/Departments/HealthServices/EnvironmentalQuality/WaterResources/ComprehensiveWaterResourcesManagementPlan.aspx>.

5.6 Limit the adverse impacts of marine debris.

- a. Ensure that litter is properly handled to reduce the occurrence of marine debris.
- b. Consider the potential of storm generated debris in the review of development.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 111-34, Beaches, Parks, and Waterways; Use of Beach Area, Littering
- Chapter 211, Littering and Handbills
- Chapter 261, Property Maintenance
- Chapter 330, Zoning; Article XVII, Special Exception Uses
- Chapter 330-119, Zoning. Nonconforming uses, buildings, and structures – Compulsory termination of nonconforming uses, bars, taverns, and nightclubs
- Chapter A340-24, Derelicts
- Chapter 169, Flood Damage Prevention
- Chapter 330, Zoning; Article VIII, Tidal Wetlands and Ocean Beach Overlay District
- Chapter 330, Zoning; Article IX, Coastal Erosion Hazard Adjacent Areas

Implementation Through Projects:

1. Continue to organize and support volunteer-based trash and marine debris removal projects such as the existing annual Great East End Cleanup. Reach out to Ocean Conservancy's International Coastal Cleanup (<http://www.oceanconservancy.org/our-work/international-coastal-cleanup/>) for supplies and educational materials.

5.7 Implement adopted watershed management plans.

- a. Implement the TMDL for the Peconic Estuary and the Comprehensive Conservation Management Plan for the Peconic Estuary.
- b. Implement the Long Island South Shore Estuary Comprehensive Management Plan.
- c. Implement the water quality strategy document developed as part of the Southampton Local Water Protection Plan (See Part 2).

ECOSYSTEM AND NATURAL RESOURCES

The Town's wildlife and habitat resources have changed over time in response to natural and man-made pressures, yet they remain an invaluable part of the Town's identity. The following section details some of the key natural resources within Town, identifies issues related to those natural resources, and provides policies and recommendations to understand, protect, and enhance the resources as appropriate.

Wildlife Resources

The wildlife resources within the Planning Boundary of the SWPP are abundant, and support both recreational and commercial activities. Shellfish in Southampton waters include hard and soft clams (*Mercenaria mercenaria*, *Mya arenaria*), American oysters (*Crassostrea virginica*), blue mussels (*Mytilus edulis*), razor clams (*Ensis directus*), and bay scallops (*Argopecten irradians*)—though populations of bay scallops and hard clams have drastically declined over the past several years, as detailed in the issues below⁹⁹. Crustaceans of commercial significance include blue crabs and lady crabs.

Southampton's fresh and salt waters are also habitat for a variety of finfish at multiple life stages, including alewife, largemouth bass, chain pickerel, banded killifish, pumpkinseed, yellow perch, white perch, brown bullhead, summer flounder, striped bass, bluefish, weakfish, black sea bass, blackfish and others. While the significance of Town waters to finfish is well-understood, parts of the Town have been more formally recognized by the National Oceanic and Atmospheric Administration (NOAA) as important (*i.e.*, Essential Fish Habitat (EFH))¹⁰⁰ to approximately 25 managed species.

Marine Mammals include harbor seals (*Phoca vitulina*), gray seals (*Halichoerus grypus*), and other Arctic seals are also present in the areas of Shinnecock Bay and Moriches Bay from December–early May. Minke whales (*Balaenoptera acutorostrata*), bottlenose dolphin (*Tursiops truncatus*), and finback whales all use the waters around the Town of Southampton as feeding grounds. Northern right whales (*Eubalaena glacialis*) are occasionally seen as they migrate through the New York Bight¹⁰¹.

Shinnecock and Moriches Bays support juvenile loggerhead sea turtles and juvenile green sea turtles during summer months. Juvenile and adult loggerheads, green, and Atlantic (Kemps) Ridley sea turtles are also found in the Town's nearshore waters. Marshes around Shinnecock Bay provide habitat for Northern diamondback terrapins which breed on the nearby barrier beaches¹⁰².

A variety of bird species rely on the Town's natural resources which provide nesting and feeding opportunities. Many waterfowl (*e.g.*, greater and lesser scaup (*Aythya marila* and *A. affinis*), American black duck (*Anas rubripes*), red-breasted merganser (*Mergus serrator*), brant (*Branta bernicla*), common goldeneye (*Bucephala clangula*) and, to a lesser degree, mallard (*Anas platyrhynchos*), Canada goose

⁹⁹ Board of Trustees. 2001. Marine Resources Protection and Management Plan; Moriches Bay, Shinnecock Bay and Mecox Bay. Prepared by the Town of Southampton Trustees. Online at www.southamptontownny.gov/FTP/SEQRA/mrmp.pdf.

¹⁰⁰ EFH Maps can be viewed at: <http://www.habitat.noaa.gov/protection/efh/habitatmapper.html>.

¹⁰¹ US Fish and Wildlife Service. 1997. Significant Habitats and Habitat Complexes of the New York Bight Watershed. Southern New England-New York Bight Coastal Ecosystems Program, Charlestown, RI. Online at: http://library.fws.gov/pubs5/web_link/text/.

¹⁰² US Fish and Wildlife Service. 1997. Significant Habitats and Habitat Complexes of the New York Bight Watershed. Southern New England-New York Bight Coastal Ecosystems Program, Charlestown, RI. Online at: http://library.fws.gov/pubs5/web_link/text/.

(*Branta canadensis*), oldsquaw (*Clangula hyemalis*), canvasback (*Aythya valisineria*), and bufflehead (*Bucephala albeola*) winter along the Town's shore between November and March. The Town's marshes support nesting colonies of terns (including colonies of roseate terns, which are fairly uncommon on the East Coast of the U.S.), gulls, and wading birds. During the months of March, April, October, and November, the Town's coasts are important to migrating birds, including several different species of raptors¹⁰³.

Habitat Resources

The habitat features in Town support the wildlife resources mentioned above, and also provide important services to the Town in the form of storm buffering, erosion prevention, water filtration, sediment supply, and passive and active recreation opportunities.

Some of the key habitat features in Town are:

- Tidal wetlands (more than 1,180 acres);
- Freshwater wetlands, which include ponds, streams, swamps, marshlands, bogs, and wet meadows (1,750 acres);
- Submerged aquatic vegetation (SAV), specifically eelgrass, widgeon grass, sea lettuce, sea wrack, rockweed, bladder wrack, red algae (including Irish moss), *Agardhiella*, and *Gracilaria*, and *Codium fragile* (an invasive species);
- Barrier islands, beaches, and dunes; and
- Migratory fish runs, primarily for alewife and American eel, though Atlantic tomcod, three spine stickleback, and white perch spawn to a lesser extent in Southampton waters.

Many of these resources receive some form of protection by the Trustees, the Town, the State, and/or the federal government. For example, protection of the Town's wetlands is addressed in Chapter 325 of the Town Code, which gives the Town Conservation Board or the Town Planning Board (in cases where an application requires site plan, subdivision or special exception approval) the ability to review applications for development projects on land with wetlands; freshwater wetlands receive protection under the federal Clean Water Act, and those greater than 12.4 acres (or smaller if considered of unusual local importance) are protected at the State level under the Freshwater Wetlands Act, which the Town of Southampton has the authority to implement under Town Code Ch 325A, Wetlands, Freshwater; SAV is also protected under the federal Clean Water Act and the Southampton Trustees Rules and Regulations.

Because of their State-wide importance, the NY Department of State/Division of Coastal Resources (DOS) has designated twenty areas in Southampton as Significant Coastal Fish and Wildlife Habitats. This designation is based on an evaluation and recommendation from the Department of Environmental Conservation (DEC). For each designated site, the DOS prepares a habitat map and narrative that provides specifics about the habitat area and resources. Regulatory reviews by both the DEC and DOS take into account any potential impacts to Significant Coastal Fish and Wildlife Habitats, and a "habitat impairment test" is part of the impact assessment portion of the DOS federal consistency review and State consistency review.

The Significant Coastal Fish and Wildlife Habitats in Southampton include the following (and are appended to this Plan):

¹⁰³ US Fish and Wildlife Service. 1997. Significant Habitats and Habitat Complexes of the New York Bight Watershed. Southern New England-New York Bight Coastal Ecosystems Program, Charlestown, RI. Online at: http://library.fws.gov/pubs5/web_link/text/.

- Alewife Creek and Big and Little Fresh Ponds
- Cow Neck
- Cranberry Bog County Park
- Cupsogue County Park
- Dune Road Marsh
- Far Pond and Middle Pond Inlets
- Flanders Bay Wetlands
- Long Pond Greenbelt
- Mecox Bay and Beach
- Moriches Bay
- Noyack Bay Beaches
- Peconic River
- Sag Harbor and Northwest Harbor
- Sagaponack Inlet
- Sebonac Neck
- Shinnecock Bay
- Southampton Beach
- Tiana Beach
- Towd Point
- Westhampton Beach and Dune

Issues and Analysis

Loss of Shellfish

Prior to 1986, Long Island waters supported an abundant bay scallop population. However brown tide (which appeared from 1985–1987, and again in 1995, and which is caused by *Aureococcus anophagefferens*) decimated the bay scallop population by 1) shading and killing the eelgrass which scallops rely on for predator protection and settling substrate during the early stages of development, 2) out-competing the algae that bay scallops consume, thereby depriving them of their food source¹⁰⁴, and 3) reducing the overall population to such low densities that spawning events did not result in widespread fertilization¹⁰⁵. It is believed that bay scallop populations have continued to suffer because there continues to be too few adults to spawn successfully¹⁰⁶, and because the habitat which supported them is compromised—both in terms of loss of SAV and impaired water quality in some locations. The latter is especially true in western Shinnecock Bay, where researchers note that shellfish are not successfully producing offspring due to poor water quality¹⁰⁷.

Efforts are also underway to monitor bay scallop populations and help increase their spawning capacity by growing juveniles in protected areas and releasing them into “spawning sanctuaries” when they reach a size that makes them less susceptible to predation. Monitoring of restoration efforts in Peconic Bay from 2007–2010 has shown an increase in the abundance of juvenile and adult scallops.

Hard clam populations have also declined in the waters surrounding Southampton over the past several decades. Population loss in Shinnecock Bay since the 1970s is estimated at 95%¹⁰⁸. Causes of the decline include brown tide, overfishing, and habitat degradation; and, similar to bay scallops, the low densities of spawning adults make it difficult for the stocks to rebound naturally.

Oyster populations have similarly declined over the past several years, and several efforts are underway to increase populations through aquaculture activities.

To combat the issue of low density, The Nature Conservancy is working with fishermen and towns to develop spawning sanctuaries for shellfish. Additionally, the Peconic Estuary Program has focused efforts on identifying the causes and minimizing the impacts of brown tides¹⁰⁹ in the hopes of minimizing their impact to shellfish. The Shinnecock Bay Restoration Program and the SPAT program through the Cornell Cooperative Extension (and in partnership with the Town Trustees) are working to reintroduce shellfish into the marine environment to improve habitat through increased water filtration by shellfish. Through this process, they will also likely increase the population of spawning adults.

Loss of SAV

¹⁰⁴ Peconic Estuary Program. 2005. Environmental Indicators Report. Riverhead, NY..

¹⁰⁵ Tettelbach, S. No date. Bay Scallop Restoration. Online at: <http://sites.google.com/site/stephentettelbach/bay-scallop-restoration>.

¹⁰⁶ Tettelbach, S. No date. Bay Scallop Restoration. Online at: <http://sites.google.com/site/stephentettelbach/bay-scallop-restoration>.

¹⁰⁷ Wright, M. 2012. Western Shinnecock bay is Sterile, Thanks to Human Proximity, Scientists Say. Southampton Press. Online at: <http://www.groupfortheeastend.org/wp/wp-content/uploads/2012/04/Southampton-News-Western-Shinnecock-Bay-Is-Sterile-Thanks-To-Human-Proximity-Scientists-Say-27east.pdf>.

¹⁰⁸ Hamptons.com. 2011. Shellfish Restoration Project Complete. Online at: <http://www.hamptons.com/Community/Main-Articles/15209/Shellfish-Restoration-Project-Completed.html#.VM9xUyygvh4>.

¹⁰⁹ Peconic Estuary Program. 2001. Comprehensive Conservation and Management Plan.

Not only did brown tide impact shellfish populations, over the years it—along with pollution and nutrient inputs, disruption from boating, fishing, and dredging activities—also decimated eelgrass beds. Estimates place the loss of SAV as high as 90%, but information about the true historic and current extent is not sufficient to quantify loss.

Some strategies identified to reduce impacts from fishing pressure include setting aside “no harvest zones” and buffer zones to prevent the use of certain disruptive harvesting techniques (such as “easing” for razor clams) in the vicinity of established and recovering eelgrass beds.

Other strategies, aimed at general boating activity, include improved marking of shallow areas and navigational channels, conducting public education about the importance of channel markers, increasing enforcement in areas of frequent disturbances¹¹⁰, and using “conservation moorings” designed to keep mooring chains from disrupting SAV.

Impacts to SAV from shore-side and upland activities can also be minimized. Stormwater abatement and septic maintenance efforts can reduce the input of nutrients and sediments. Coastal development can be conducted in a manner that minimizes the introduction of sediment; and docks and piers can be constructed in a way that minimizes shading and impacts to bottomland.

While measures to prevent loss of existing SAV are important, restoration activities are also needed to help rebuild SAV resources. Eelgrass restoration research in Shinnecock Bay shows mixed success when shoots harvested from an adjacent area were transplanted to a bare area and monitored, with average percent survivability between fall 2006 to fall 2007 ranging from as high as 557.11% to as low as 19.96%¹¹¹. The difference between survivability rates at each of the test sites is unknown, but researchers speculate that bioturbation, shellfishing activities, and high water temperatures might have influenced survivability.

Sea Level Rise and Climate Change

As explained in greater detail in the section about Flooding, Erosion, and Sea Level Rise, the increase in sea level in Southampton will likely impact the extent of habitat and the range of natural resources. Marshes, seagrass beds, tidal flats, and beaches may not be able to migrate due to coastal development resulting in the loss of critical habitats and ecosystem services such as storm attenuation.

Marshes will particularly be at risk where they are backed by steep slopes or development. The more immediate losses, however, may be losses of barrier beaches where sea level rise might accelerate shoreline erosion¹¹².

Additionally, wetland boundaries will be subject to change as sea level rises, with potential enforcement implications.

Climate change also presents challenges for the Town’s ecosystem and natural resources. As water temperatures change globally, some species will migrate, posing new issues (*e.g.*, new predators or new species to compete for existing resources) in Town waters. Related to climate change, ocean acidification may also impact animals in Town waters, such as shellfish, whose shell thickness may be affected by the change in water chemistry.

¹¹⁰ Pickerell, C., Rivara, G., Petersen Manzo, K., Schott, S. 2009. Town of Southampton Eelgrass and Bay Scallop Restoration Planning Project: Final Report.

¹¹¹ Pickerell, C., Rivara, G., Petersen Manzo, K., Schott, S. 2009. Town of Southampton Eelgrass and Bay Scallop Restoration Planning Project: Final Report.

¹¹² Strange, E.M. No Date. North Shore, Long Island Sound and Peconic Estuary.

Invasive Species

Some of the Town's native natural resources are affected by invasive species, including:

- The Asian shore crab, *Hemigrapsus sanguineus*
- The common reed (*Phragmites australis*), and
- Green fleece (*Codium fragile*)

Each of these invasives presents problems such as out-competing local species and/or disrupting their life biological processes.

One additional issue related to invasive species is the introduction of non-native animals through the stocking of Wildwood Lake, Alcotts, Beaverdam, Big Fresh Pond, Trout Pond, and Phillips Pond. This issue of stocking non-native species, rather than native species, was brought up during the 1999 Comprehensive Plan Update¹¹³, and still remains an issue of concern for the Town.

Coastal development/alteration (water quality, shoreline, wetlands)

Coastal development and alteration has a significant impact on the area's natural resource, resulting in the loss of important habitat, the disruption of sediment transport, increases in impervious surfaces, introduction of new sources of pollutants such as nitrogen from septic systems; and the disruption of fish spawning areas.

In addition to establishing several regulatory measures to minimize impacts from coastal development, the Town is engaged in several non-regulatory initiatives intended to address the impacts of coastal development and alteration, including work to acquire open space, efforts to prevent shoreline hardening; studies to identify sources of non-source pollutants; public education to teach residents about water quality issues that impact human health and the ecosystem; and modeling to understand sources of nitrogen in surface and ground waters.

Policy 6 Protect and restore the quality, diversity, and function of the ecosystem.

The ecosystem consists of physical (non-living) components, biological (living) components, and their interactions. Its physical components include environmental factors, such as, water, soils, geology, sunlight, temperature, etc. The biological components include assemblages of plants, animals, and other living organisms.

Certain natural resources that are important for their contribution to the quality and biological diversity of the coastal ecosystem have been specifically identified by the State for protection. These natural resources include regulated tidal and freshwater wetlands; designated Significant Coastal Fish and Wildlife Habitats; and rare, threatened, and endangered species. In addition to specifically identified discrete natural resources, the quality of the ecosystem also depends on more common, broadly distributed natural resources, such as the extent of forest cover, the population of finfish and shellfish (which, in turn, are dependent on the abundance of algae and other microscopic organisms and particles in the water column, as well as dissolved oxygen, pH, temperature, etc.), the presence of native vegetation, and the health of dune systems. These more common natural resources collectively affect the quality and biological diversity of the ecosystem. Both the natural resources and the quality of the ecosystem will likely be affected by climate change and sea level as conditions in the water (*e.g.*,

¹¹³ Town of Southampton. 1999. "Southampton Tomorrow: Comprehensive Plan Update, Implementation Strategies", Town of Southampton, New York.

temperature and circulation changes, species migration, etc.) and along the coast (*e.g.*, more frequent storm inundation, migration of the shoreline and its features, etc.) change. Predicted climate change and sea level rise impacts will also be addressed in this policy as they pertain to natural resources.

6.1 Protect and restore the quality and diversity of ecological communities.

- a. Avoid significant physical and functional loss or degradation of the ecosystem stemming from new and existing land and water uses (*e.g.*, shading from docks and piers, water quality impairments from failing septic systems, loss of sediment due to shoreline hardening, damage to eelgrass from boater activity). Design new and existing land and water uses to avoid/minimize potential adverse impacts or changes to ecological processes. Mitigate unavoidable loss.
- b. Employ design/construction methods to reduce the impacts of docks on natural resources. In particular, encourage techniques that reduce impacts from shading.
- c. Reduce the impacts of boat moorings to the benthic habitat.
- d. Restore damaged ecological communities where feasible.
- e. Prepare for climate change so as to minimize physical and functional loss or degradation of the ecosystem.
- f. Maintain values associated with natural ecological communities.
- g. Maintain corridors as well as structural and functional relationships between ecological communities to provide for self-sustaining systems.
- h. Retain and add indigenous plants (*e.g.*, eel grass) and animals (*e.g.*, bay scallops) as appropriate while avoiding the introduction of non-native species.
- i. Protect land (*e.g.*, through acquisition, easements, and transferrable development rights) to preserve ecosystem functions. Look to the Community Preservation Fund (CPF) Priority List as a guide.
- j. Encourage the use of Planned Development Districts, where appropriate, when they are found to achieve the preservation and conservation of open spaces, natural resources, diverse ecological communities, species diversity, and groundwater quality and quantity.
- k. Preserve existing diadromous fish runs and restore populations in tributaries where appropriate conditions exist or can reasonably be created.
- l. Minimize ecological consequences due to artificial night lighting.
- m. Dredging should be considered as one option for improving water circulation in strategic areas.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 75, Water Quality Protection Fund
- Chapter 140, Community Preservation Fund
- Chapter 157, Environmental Quality Review

- Chapter 158, Environmental Savings Fund
- Chapter 229, Natural Resources, Protection of
- Chapter 231, Nature Preserve
- Chapter 244, Transfer of Development Rights Certificate Program
- Chapter 247, Open Space; Article I Planned Residential Development
- Chapter 247, Open Space; Article III Conservation Easements
- Chapter 278, Shellfish
- Chapter 285, Stormwater Management and Erosion and Sediment Control
- Chapter 285A, Storm Sewers
- Chapter 292-6.1, Subdivision of Land; Conservation opportunities subdivision review procedures
- Chapter 292-11, Subdivision of Land; Planned residential development
- Chapter 292-39, Subdivision of Land; Preservation and protection of natural environment
- Chapter 292-41, Subdivision of Land; Bulkheading and waterways
- Chapter 308, Vegetation, Protection of
- Chapter 325, Wetlands
- Chapter 325A, Wetlands, Freshwater
- Chapter 330-7, Zoning; Transfer of permitted residential development rights
- Chapter 330, Zoning; Article VIII Tidal Wetlands and Ocean Beach Overlay District
- Chapter 330, Zoning; Article XXIV Central Pine Barrens Overlay District
- Chapter 330, Zoning; Article XXVI Planned Development District
- Chapter 330, Zoning; Article XXIX Outdoor Lighting
- Chapter A340, Management of Town Waters

Implementation Through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. Chapter 111. Develop and add standards for boat moorings (conservation moorings) that reduce impacts to benthic habitat.
2. Chapters 138 and A340. Update to include more specific design requirements for docks and piers.
3. Chapter 138-10. Update to include language not allowing the placement of moorings in eelgrass in order to prevent plant loss and its function of securing sediment.
4. Chapter 151-8C(5). Modify wording from “habitat restoration” to “habitat and ecological community restoration” as one of the specific potential uses of the Environmental Fund.

5. Chapter 330. Consider the development of a rolling easement district (*e.g.*, as shown at <http://water.epa.gov/type/oceb/cre/upload/rollingeasementsprimer.pdf>), to protect key adjacent lands (*i.e.*, those that would allow for resource migration) from development and alteration. Potential language might suggest that (1) no new construction be allowed, (2) no fill shall be placed, and (3) new development, redevelopment, and other activities shall be located and designed so as not to impede the landward migration of coastal resources.
6. Chapter 325. Update to acknowledge sea level rise impacts (*e.g.*, in purpose section) and to accommodate for wetland migration, perhaps increasing the 100 ft buffer and/or adding an elevation element to the buffer.
7. Chapter 330-46.2. Modify language regarding “Adjacent Areas” to reflect sea level rise and to accommodate migration of natural resources such as dunes, wetlands, and beaches.
8. Chapter A340. Update to allow for dredging to improve water circulation.

Implementation Through Projects:

1. Identify sensitive benthic habitat areas (*e.g.*, eelgrass beds). Use these areas to develop standards for moorings and floating docks, and consider requiring all existing moorings and floating docks in those sensitive benthic habitat areas to be converted to conservation moorings. Conduct pre- and post-installation monitoring of sites to determine impacts of new moorings and docks on benthic habitat.
2. Survey and identify damaged ecological communities. Develop and implement restoration plans where feasible.
3. Require light-penetrating deck material on bluff stairs.
4. Conduct a study on the impacts of sea level rise to the aquifers in Southampton, similar to the studies conducted on Cape Cod: <http://www.apcc.org/sealevelrise/index.html>.
5. Update the Community Preservation Project Plan to include lands needed for natural resource migration due to sea level rise. Refer to <http://coastalresilience.org/> for maps on marsh migration areas.
6. Conduct an inventory of
 - a. coastal resources at risk of inundation under various sea level rise scenarios,
 - b. areas that might accommodate inland migration, and
 - c. barriers to resource migration. Using this inventory, the Town could:
7. Develop an overlay district (perhaps a rolling easement district (*e.g.*, <http://water.epa.gov/type/oceb/cre/upload/rollingeasementsprimer.pdf>) to protect key adjacent lands (*i.e.*, those that would allow for resource migration) from development and alteration.
 - a. Identify and integrate rolling easements by overlay district or as otherwise addressed.
 - b. Use this inventory to acquire important land or easements in the overlay district. Include the identified land in the next update of the Town’s CPF Project Plan.
 - c. Designate this area as a coastal retreat zone and use Transfers of Development Rights (TDRs) to encourage development in lands not suitable for coastal resource retreat.

8. Consider amending the existing Tidal and Wetlands Ocean Beach Overlay District.
9. Update the Community Preservation Project Plan to include lands needed for natural resource migration due to sea level rise, similar to work being conducted for Tiana Bay.
10. Place interpretive signage at boat ramps to encourage boaters to inspect their vessels for invasive species.
11. Develop and distribute educational material for boaters regarding invasive species and Best Management Practices to minimize their introduction (*e.g.*, signs at the boat ramps, flyers, etc.).
12. Continue to work with the Trustees to identify those locations in need of dredging for water circulation purposes. As part of this, identify potential impacts (positive and negative) of dredging in those areas and prioritize and implement the projects.
13. Assess buffers on Town-owned property to ensure that they are adequate.
14. Work with fishermen, Trustees, researchers, and other stakeholders to develop a comprehensive and coordinated shellfish management plan (building on work done for the Shinnecock Bay Shellfish Management Plan) that defines and works to achieve “sustainable use” of shellfish resources, including such topics as habitat protection, spawning sanctuaries/no harvest zones, shellfish planting, aquaculture, eelgrass planting, etc.
15. Develop an oral history/documentary of the shellfish and habitat resources by talking with experienced Baymen resource managers.
16. Conduct an inventory of navigation aids to ensure that they are adequate in terms of protecting natural resources. Mark additional areas known to be good shellfish habitat.
17. Work to reinstate funding for shellfish protection.
18. Continue to identify fish runs and barriers to fish migration. Conduct restoration activities as appropriate.
19. Organize and host a waterfront festival/ maritime heritage festival showcasing the Town’s present and historical waterfront resources and livelihoods (*e.g.*, lifeguarding skills, fishing, boating, seafood preparation, etc.) to promote interest in and awareness of coastal and waterfront issues.
20. Following an engineering inspection of the Old Ponquogue Bridge, address safety concerns to allow for safe enjoyment of this important habitat and recreational resource.

Implementation Through Proposed Administrative Changes or Actions:

1. Use the DEC’s list of ecological communities¹¹⁴ to inventory ecological communities in Town. Consult this inventory when making decisions regarding development and land acquisition to ensure that activities do not negatively impact the values identified, including relationships and corridors between communities.
2. Conduct public meetings to educate residents about the Town’s plans to address climate change impacts (existing and anticipated).

¹¹⁴ The list is available at: <http://www.dec.ny.gov/animals/29392.html>.

3. Identify new sending areas for migration of coastal resources due to sea level rise through TDRs.
4. Continue to set aside and monitor the impacts of “no harvest zones” and buffer zones to prevent the use of certain disruptive harvesting techniques (such as “easing” for razor clams) in the vicinity of established and recovering eelgrass beds.
5. Conduct public education about the importance of minding navigational aids both for personal safety and for protection of habitat, and increase enforcement in areas of frequent disturbances.
6. Look to the Community Preservation Fund Priority List as a guide for land protection projects. Add to that list as appropriate.
7. Encourage the State to assess the environmental and economic impacts to fishing and shellfishing stemming from water quality impairments.
8. Continue to enforce Chapter 330, Article XXIX: Outdoor Lighting for the protection of the Town’s natural resources.

6.2 Protect and restore Significant Coastal Fish and Wildlife Habitats.

- a. Protect designated Significant Coastal Fish and Wildlife Habitats within Southampton from uses or activities that would destroy habitat values or significantly impair the viability of the habitat beyond its tolerance range—the ecological range of conditions that supports the species population or that has the potential to support a restored population where practical. The Narrative for each of the designated habitats describes the habitat, its value, and the activities that may impact it.
- b. Employ appropriate mitigation techniques such as timing activities to avoid vulnerable periods in life cycles to minimize potential development impacts to critical habitats.
- c. Wherever practical, enhance or restore designated habitats so as to foster their continued existence as natural systems.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 75, Water Quality Protection Fund
- Chapter 111, Beaches, Parks, and Recreation Centers
- Chapter 140, Community Preservation Fund
- Chapter 150, Dogs and Other Animals
- Chapter 157, Environmental Quality Review
- Chapter 158, Environmental Savings Fund
- Chapter 229, Natural Resources, Protection of
- Chapter 231, Nature Preserve
- Chapter 244, Transfer of Development Rights Certificate Program

- Chapter 247, Open Space; Article I Planned Residential Development
- Chapter 247, Open Space; Article III Conservation Easements
- Chapter 278, Shellfish
- Chapter 285, Stormwater Management and Erosion and Sediment Control
- Chapter 285A, Storm Sewers
- Chapter 292-6.1, Subdivision of Land; Conservation opportunities subdivision review procedures
- Chapter 292-11, Subdivision of Land; Planned residential development
- Chapter 292-39, Subdivision of Land; Preservation and protection of natural environment
- Chapter 292-41, Subdivision of Land; Bulkheading and waterways
- Chapter 308, Vegetation, Protection of
- Chapter 325, Wetlands
- Chapter 325A, Wetlands, Freshwater
- Chapter 330-7, Zoning; Transfer of permitted residential development rights
- Chapter 330, Zoning; Article VIII Tidal Wetlands and Ocean Beach Overlay District
- Chapter 330, Zoning; Article XXIV Central Pine Barrens Overlay District
- Chapter 330, Zoning; Article XXVI Planned Development District
- Chapter A340, Management of Town Waters

6.3 Protect and restore tidal and freshwater wetlands.

- a. Restore and create wetlands, where prudent and necessary, to increase the quantity and quality of the Town's wetland resource base. Provide for achievement of a net increase in wetlands when practical opportunities exist to create new or restore former tidal wetlands.
- b. Comply with statutory and regulatory requirements of existing wetland laws, focusing on the prevention of a net loss of vegetated wetlands by avoiding fill or excavation; minimizing adverse impacts resulting from unavoidable fill, excavation, destruction of natural vegetation, or other activities; and providing for compensatory mitigation for unavoidable adverse impacts.
- c. Provide and maintain naturally vegetated buffers between wetlands and adjacent or nearby uses and activities to protect wetland values such as habitat, water retention, and pollution abatement. Consider wetland migration in delineating the wetland buffer.
- d. Promote the use of best management practices for land uses and development activities that will minimize impacts on wetlands, such as requiring on-site stormwater detention for all developments.
- e. Advance integration of wetland protection with other programs and local laws.
- f. Consider potential impacts from climate change and sea level rise (*e.g.*, wetland migration, wetland delineation) when considering action affecting wetlands.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 75, Water Quality Protection Fund
- Chapter 111-12, Beaches, Parks and Waterways
- Chapter 138, Coastal Erosion Hazard Areas
- Chapter 140, Community Preservation Fund
- Chapter 157, Environmental Quality Review
- Chapter 229, Natural Resources, Protection of
- Chapter 231, Nature Preserve
- Chapter 247-9, Open Space
- Chapter 285, Stormwater Management and Erosion and Sediment Control
- Chapter 292, Subdivision of Land
- Chapter 308, Vegetation, Protection of
- Chapter 325, Wetlands
- Chapter 325A, Wetlands, Freshwater
- Chapter 330, Zoning; Article II Residence Districts
- Chapter 330, Zoning; Article VII Tidal Wetlands and Ocean Beach Overlay District
- Chapter 330, Zoning; Article XVI Planned Development District
- Chapter 330, Zoning; Article XVII Special Exception Uses
- Chapter 330, Zoning; Article XXIV Central Pine Barrens Overlay District

Implementation Through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. Chapter 325A. Consider the feasibility of assuming administration of the NYS Freshwater Wetlands Program.
2. Chapter 330-46.2. Adjust language regarding “adjacent areas” to reflect sea level rise and to accommodate migration of natural resources such as wetlands.
3. Chapter 123-24. Revise to include a representative of the Land Management Department on the Road Review Committee.
4. Chapter 123 Building Construction; Article VI: Swimming Pools. Consider adding new requirements for the construction and installation of swimming pools to minimize impact on wetlands and water quality¹¹⁵.

¹¹⁵ See

<http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0CEMQFjAC&url=http%3A%2F%2Flanduse.law.pace.edu%2Flanduse%2Fdocuments%2Fflaws%2Freg2%2FNY-ORD-Easthampton-Harbor.doc&ei=omgzUsiyPOLh4AO5s4CQDA&usg=AFQjCNHHjKM7Vq6SUufthzc2RKo5IssbQA&bvm=bv.52164340,d.dmg> for example content.

5. Chapter 325 (Wetlands). Update the “Findings” section to acknowledge the impacts of mosquito ditching in Chapter 325-2(B); and consider a moratorium on new mosquito ditching.

Implementation Through Projects:

1. Identify impaired wetlands and evaluate their needs. Conduct restoration activities as appropriate—including projects such as re-planting, invasive species removal, water flow/circulation improvement projects, monitoring, etc.

Implementation Through Proposed Administrative Changes or Actions:

1. Develop an inventory of wetland restoration and creation opportunities. Consult this inventory when using Town funds to purchase or protect land, when issuing permits requiring mitigation, and when grant opportunities arise.
2. Explore techniques in Open Water Marsh Management.
3. Develop a protocol for reviewing and establishing wetland boundaries (CH 325), taking into consideration the changes in wetlands due to more frequent flooding and wetland migration.

6.4 Protect vulnerable fish, wildlife, and plant species, as well as rare ecological communities.

- a. Ensure that measures are taken to protect rare, threatened, and endangered species.
- b. Prevent harm to vulnerable fish, wildlife, plant species, and rare ecological communities stemming from the impacts of land use.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 75, Water Quality Protection Fund
- Chapter 111, Beaches, Parks, and Waterways; Article I Beaches, Parks, and Recreation Centers
- Chapter 111, Beaches, Parks, and Waterways; Article VI Construction in and Adjacent to Town Waters and Beach Areas
- Chapter 138-11, Coastal Erosion Hazard Areas; Article II Restrictions on Regulated Activities, Beach Areas
- Chapter 140, Community Preservation Fund
- Chapter 150, Dogs and Other Animals
- Chapter 229, Natural Resources
- Chapter 231, Nature Preserve
- Chapter 278, Shellfish
- Chapter 285, Stormwater Management and Erosion and Sediment Control
- Chapter 325, Wetlands
- Chapter 330-46.3, Zoning; Native vegetation and natural vegetation protection standards

AIR QUALITY

Issues and Analysis

There are two major issues related to air quality and its impacts on the Southampton waterfront area:

- So-called greenhouse gasses
- Atmospheric deposition of Nitrogen

Greenhouse Gasses

The Town Sustainability Plan¹¹⁶ states:

“Vehicle use accounts for approximately 20% of U.S. greenhouse gas emissions, making transportation an important focus of any sustainability plan. At the local level, increasing vehicle use is having a harmful effect on local air quality—although the Town’s rating on the EPA Air Quality Index is generally good, its ranking with respect to ozone levels are on the decline and now fall below the national average... To address these issues, this section of the Plan focuses on strategies to promote alternative modes of transportation, particularly during the peak summer travel season”¹¹⁷.

Many, if not most, of the sources of greenhouse gases affecting the Town come from areas well removed from local jurisdiction. Consequently most of the management of this issue will be done at the federal and State level. However, both the Sustainability Plan and the in-progress Climate Action Plan include an extended series of recommendations for the implementation of limits on greenhouse gas impacts within the Town.

Atmospheric Deposition of Nitrogen

As mentioned in the Water Quality section, excessive levels of nitrogen in coastal waters can lead to eutrophication and Harmful Algal Blooms (HABs). Kinney and Valiela, in reviewing nitrogen input to Great South Bay¹¹⁸, note that direct atmospheric deposition of nitrogen onto the surface of the Great South Bay can be as much as 44% of the annual nitrogen load from the watershed to the Great South Bay. Stinnette¹¹⁹ modeled nitrogen loadings and sources to Moriches, Quantuck and Shinnecock Bays related to adjacent sub-watersheds as part of her Master’s thesis work and found that, generally, atmospheric deposition contributed about 15% of the total nitrogen loads from land-based sources. A similar modeling effort by The Nature Conservancy found that 24% of nitrogen from land-based sources in the Peconic Estuary was from atmospheric deposition¹²⁰. Together, these studies show that

¹¹⁶ Perkins + Will. 2013. Southampton 400+ Sustainability Element, Addendum to the Town of Southampton Comprehensive Plan, 2013”. Online at:
<http://www.southamptontownny.gov/DocumentCenter/Home/View/2260>.

¹¹⁷ Perkins + Will. 2013. Southampton 400+ Sustainability Element, Addendum to the Town of Southampton Comprehensive Plan, 2013”. Online at:
<http://www.southamptontownny.gov/DocumentCenter/Home/View/2260>.

¹¹⁸ Erin Kinney and Ivan Valiela. 2011. Nitrogen Loading to Great South Bay: Land Use, Sources, Retention, and Transport from Land to Bay. J. Coastal Research, V. 27, Issue 4, pp 672–686.

¹¹⁹ Stinnette, Isabelle. 2014. Nitrogen Loading to the South Shore, Eastern Bays, NY: Sources, Impacts, and Management Options. Masters Thesis, SUNY at Stony Brook.

¹²⁰ Lloyd, Stephen. 2014. Nitrogen Load Modeling to Forty-Three Subwatersheds of the Peconic Estuary. Online at:

atmospheric deposition can be a significant source of nitrogen to the waterbodies in and around the Town of Southampton..

A review of proposed Total Maximum Daily Loadings (TMDLs) to the Peconic Estuary by the US EPA¹²¹ confirms this, reporting that

“Atmospheric Deposition is the largest contributor of nitrogen to the Peconic Estuary...Human activities have increased the amount of nitrogen in our atmosphere. Emissions from motor vehicles, electric utilities and industrial boilers are the largest contributors of atmospheric nitrogen oxides in our country. The nitrogen fertilizers that farmers apply to their land are a large contributor of ammonia into the atmosphere.”

The report goes on to note that implementation of the TMDL “is likely” to reach the goal of reduction of nitrogen to goal levels by 2022. As of November 2014, assessments of impacts of atmospheric deposition of nitrogen, or TMDLs to manage these inputs, for the smaller embayments or other water bodies within the Town of Southampton have not been developed.

The sources of much of the atmospheric deposition of nitrogen that reaches Southampton are located well away from the Town (although vehicle use within the Town clearly can be a factor), so the US EPA report duly notes that the TMDL for the Peconic Estuary is based on full implementation of the Federal Clean Air Act and its associated programs and State of New York programs including;

- Adoption of low-emission-vehicle standards for NO_x and CO₂,
- Adoption of the Regional Greenhouse Gas Initiative, and
- Initiation of the collaborative Renewable Energy Portfolio.

Policy 7: Protect and improve air quality in the Southampton waterfront area.

This policy provides for protection of the Southampton waterfront area from air pollution generated within the coastal area or from outside the coastal area which adversely affects coastal air quality.

It is assumed, as part of the following sub-policies, that the implementation of the Federal Clean Air Act will be the principal means of implementation related to both greenhouse gas impacts and atmospheric deposition of nitrogen within the Town—buttressed by recommendations from the Sustainability Element Addendum to the Town Comprehensive Plan and from the in-progress Town of Southampton Climate Action Plan.

7.1 Control or abate existing and prevent new air pollution.

- a. Limit pollution resulting from new or existing stationary air contamination sources consistent with applicable standards, plans, and requirements.
- b. Wherever possible recycle or salvage air contaminants using best available air cleaning technologies.
- c. Where possible, limit pollution resulting from vehicle or vessel movement or operation, including promotion of alternative fuel (electric, hybrid or propane/liquefied petroleum gas) where economically or practicably feasible.

<https://www.conservationgateway.org/ConservationByGeography/NorthAmerica/UnitedStates/edc/Documents/Nitrogen%20load%20modeling%20to%20the%20Peconic%20Estuary%20-%20TNC%20May%202014.pdf>.

¹²¹ US EPA. 2013. Peconic Estuary TMDL Review. Online at: www.peconicestuary.org.

- d. Limit actions which directly or indirectly change transportation uses or operation resulting in increased pollution.
- e. Restrict emissions or air contaminants to the outdoor atmosphere which are potentially injurious or unreasonably interfere with enjoyment of life or property.
- f. Limit new facility or stationary source emissions of acid deposition precursors consistent with achieving final control target levels for wet sulfur deposition in sensitive receptor areas, and meeting New Source Performance Standards for the emissions of oxides of nitrogen.

Implementation Through Proposed Administrative Changes or Actions:

- 1. Incorporate the recommended tactics/actions of the Sustainability Plan and the Climate Action Plan (when completed and accepted) when reviewing activities with the potential of introducing additional contaminants to the atmosphere.

7.2 Limit discharges of atmospheric radioactive material to a level that is as low as practicable.

7.3 Limit sources of atmospheric deposition of pollutants to the waterfront area, particularly from nitrogen sources.

7.4 Reduce transportation impacts on green house gas emissions through promotion of alternative modes including walking, biking, transit, higher vehicle occupancies, and low-emission/alternate fuel vehicles.

- 1. Develop off-road bike routes as a means of decreasing motorized vehicle traffic (as well as providing access to scenic and cultural resources).
- 2. Encourage public transportation and pedestrian infrastructure development and use; especially as related to activity within and between hamlet and institutional destinations.

Implementation Through Proposed Administrative Changes or Actions:

- 1. Consider the recommended tactics/actions of the Sustainability Plan when reviewing activities with a transportation component or which will affect transportation choices.

SOLID WASTE AND HAZARDOUS SUBSTANCES AND WASTE

Most Long Island towns have solid waste management plans approved by the NY Department of Environmental Conservation. In addition, all significant Long Island landfills have been assigned monitors employed by the NY Department of Environmental Conservation to ensure that adverse impacts, such as leachates to groundwater, are mitigated. The NY Department of Health implements a gas monitoring system. Smaller and more incremental solid waste problems arise from littering.

Policy 8: Minimize environmental degradation in the coastal area from solid waste and hazardous substances and wastes.

The intent of this policy is to protect people from sources of contamination and to protect coastal resources from degradation through proper control and management of wastes and hazardous materials. In addition, this policy is intended to promote the expeditious remediation and reclamation of hazardous waste sites to permit redevelopment. Attention is also required to identify and address sources of soil and water contamination resulting from landfill and hazardous waste sites and in-place sediment contamination. As the Town Sustainability Plan states:

"Southampton no longer has an active landfill in the Town, and solid waste is carted off Long Island for disposal upstate or further west. While this practice puts municipal waste out of sight and can put it out of mind, it is costly and has a large carbon footprint. Methane emanating from landfills is twenty-one times more potent than carbon dioxide in contributing to greenhouses gases, and the long-distance hauling contributes as well. The Town of Southampton adopted a Municipal Solid Waste Management Plan (SWMP) in 2011 to improve waste collection and encourage waste reduction, reuse and recycling. This section of the Plan reflects the approved SWMP, while proposing zero waste production as an aspirational goal addressing both the fiscal and environmental impacts of waste management in the Town¹²²."

Both the Sustainability Plan and the in-progress Town Climate Action Plan address aspects of solid and hazardous waste management.

8.1 Manage solid waste to protect public health and control pollution.

- a. Require plans for proper and effective solid waste disposal as part of major development or activities.
- b. Manage solid waste by: reducing the amount of solid waste generated, reusing or recycling material, and using land burial or other approved methods to dispose of solid waste that is not otherwise being reused or recycled.
- c. Prevent the discharge of solid wastes into the environment by using proper handling, management, and transportation practices.
- d. Operate solid waste management facilities to prevent or reduce water, air, and noise pollution and other conditions harmful to the public health.
- e. Strictly enforce anti-litter laws and enact education programs to minimize littering.

¹²² Perkins + Will. 2013. Southampton 400+ Sustainability Element, Addendum to the Town of Southampton Comprehensive Plan. Online at: <http://www.southamptontownny.gov/DocumentCenter/Home/View/2260>.

Implementation Through Proposed Administrative Changes or Actions:

1. Incorporate the recommended tactics/actions of the Sustainability Plan and the Climate Action Plan (when completed and accepted) when reviewing activities with the potential of impacts to public health and pollution control.

Implementation Through Projects:

1. Develop a plan for a Town or East End reuse facility for deconstructions

8.2 Manage hazardous wastes to protect public health and control pollution.

Implementation Through Proposed Administrative Changes or Actions:

1. Manage hazardous waste in accordance with the following priorities:
 - (1) eliminate or reduce generation of hazardous wastes to the maximum extent practical;
 - (2) recover, reuse, or recycle remaining hazardous wastes to the maximum extent practical;
 - (3) use detoxification, treatment, or destruction technologies to dispose of hazardous wastes that cannot be reduced, recovered, reused, or recycled;
 - (4) use land disposal as a last resort.
2. Phase out land disposal of industrial hazardous wastes.
3. Ensure maximum public safety through proper management of industrial hazardous waste treatment, storage, and disposal.
4. Remediate inactive hazardous waste disposal sites.

8.3 Protect the environment from degradation due to toxic pollutants and substances hazardous to the environment and public health.

Implementation Through Proposed Administrative Changes or Actions:

1. Ensure the prevention of new releases of toxic pollutants or substances hazardous to the environment that would have a deleterious effect on fish and wildlife resources as part of the environmental review process.
2. Prevent environmental degradation due to persistent toxic pollutants by: limiting discharge of bioaccumulative substances, avoiding resuspension of toxic pollutants and hazardous substances and wastes, and avoiding reentry of bioaccumulative substances into the food chain from existing sources.
3. Prevent environmental pollution due to radioactive materials.
4. Protect public health, public and private property, and fish and wildlife from inappropriate use of pesticides. Provide educational/informational resources to homeowners, agricultural users, and other users of pesticides to develop more informed decisions related to pesticide use.

5. Take appropriate action to correct all unregulated releases of substances hazardous to the environment.

8.4 Prevent and remediate discharge of petroleum products.

Implementation Through Proposed Administrative Changes or Actions:

1. Minimize adverse impacts from potential oil spills by appropriate siting of petroleum offshore loading facilities and dock-side fueling facilities.
2. Have adequate plans for prevention and control of petroleum discharges in place at any waterfront area petroleum-related facility. Have signs at fueling stations advising against the “topping-off” of fuel tanks.
3. Prevent discharges of petroleum products by following approved handling and storage, and facility design and maintenance principles.
4. Clean up and remove any petroleum discharge, giving first priority to minimizing environmental damage.
5. Review NY DEC survey(s) of gas station underground tank leakage for any necessary remedial action.

8.5 Transport solid waste and hazardous substances and waste in a manner which protects the safety, well-being, and general welfare of the public; the environmental resources of the state; and the continued use of transportation facilities.

8.6 Site and future solid and hazardous waste facilities to avoid potential degradation of coastal resources.

8.7 Achieve net zero waste production by minimizing waste production and treating waste as a resource rather than a by-product.

Implementation Through Proposed Administrative Changes or Actions:

- a. Consider the recommended tactics/actions of the Sustainability Plan and the Climate Action Plan (when completed and accepted) when reviewing activities with a transportation component or which will affect transportation choices.

PUBLIC ACCESS AND RECREATION

There are a wide variety of uses for water-related access and recreational activities along the extended shoreline and waterfront area within the Town of Southampton. Likewise, there are a number of jurisdictions involved. The following provides a brief overview of public access and recreation resources and related jurisdictions.

The Public Trust Doctrine in the Town of Southampton

Trustee Lands

The public ownership of underwater lands, rights of ways to the water, marshland, and common areas within what is now the Town of Southampton was established by the Dongan Patent of 1686. In that year, King James II of England, through his General Governor, Thomas Dongan, granted over 25,000 acres of land, instituting the first official government in the Town of Southampton. Local and State courts, and even the Supreme Court of the United States, have repeatedly ruled that the Dongan Patent is as valid today as it was in 1686. The Dongan Patent guarantees every Town Freeholder's right to access and use this land and its resources, and establishes the Board of Trustees of the Freeholders which holds these lands in trust and manages them. Over the intervening centuries, the Trustees have been faithful in upholding the public rights to these lands.

The "Blue Book", produced and regularly updated by the Trustees, describes lands and waters under their jurisdiction along the Atlantic shoreline in the following terms, "The easement along the Atlantic Ocean is bounded on the north by the crest of the primary dune, on the east by the easterly Town line, on the south by the high water mark of the Atlantic Ocean and on the west by the westerly Town line. This area is a right of way granted by the Dongan Patent and upheld by subsequent court cases." The Blue Book also describes a "Passing Way" between high and low water on the Atlantic shore.

Additionally, the Trustees hold title to lands below the mean high tide in the South Shore Bays as well as in the North Shore coves, creeks and embayments. They also hold title to various upland parcels that are important to public access to waterways.

Public Trust in areas where Trustees do not "hold lands"

Lands below the low water mark on the Atlantic coast and within Peconic Bay are under the jurisdiction of the State of New York, also held in trust for the citizens. Unless otherwise stipulated for reasons of public health, safety, or welfare, the public has unfettered use of these areas.

Public Beaches

While the public has access to all lands below the crest of the dunes on the Atlantic shore, the Town of Southampton Parks and Recreation Department operates beaches which are health-department approved, and offers supervision during the summer months. These include pavilions equipped with toilet facilities and food concessions. Seasonal parking permits are required and are available for purchase at the individual beaches. These include:

- Ponquogue Beach (Hampton Bays)
- Tiana Beach (Hampton Bays)
- Flying Point Beach (Southampton)
- Long Beach and Foster Memorial Park (Noyac)
- Emma Rose Elliston Park (Sag Harbor)

- Sagg Main Beach (Sagaponack)
- W. Scott Cameron and Mecox Beach (Bridgehampton)
- Pike's Beach (West Hampton Dunes) Additionally, the Suffolk County Parks Department manages the following beaches (supervised during summer months):
- Sears Bellows , Bellows Terrace Road, Hampton Bays—Offers Bellows Pond swimming (Fresh water pond) and campground sites for trailers, tents, and organized camping clubs.
- Shinnecock East , Meadow Lane, Southampton—Offers Atlantic Ocean swimming, off road vehicle access, surf casting at Shinnecock Inlet, and outer beach camping for self-contained trailers or motor homes (no tents).
- Cupsogue Beach, Dune Road, Westhampton—Offers Atlantic Ocean swimming, off road vehicle access, and outer beach camping for self-contained trailers or motor homes (no tents).
- Meschutt Beach County Park, Hampton Bays (near Shinnecock Canal)—Offers Peconic Bay swimming (Still Water Bay) and camping for self-contained trailers or motor homes (no tents).

Existing Inventories of Public Access and Recreation Resources

Town of Southampton Recreation Plan (2003)

The 2003 Town Recreation Plan¹²³ lists water-related recreation opportunities and facilities by type and by hamlet.

Bathing/Swimming Beaches

The 2003 Town Recreation Inventory and Needs Assessment identifies 20 Town beaches and 4 County beaches (along with 9 Village beaches) along the waterfront. (As noted above, currently only a limited number of the Town beaches are Health Department approved and have facilities.)

Marinas, Boathouses and Piers

A total of 15 Town and 1 County public Marinas, Boathouses, and Piers are identified in the 2003 Town Recreation Inventory (Sector Management Ltd., 2003) along with a note that there are “at least 32” private marinas within the borders of Southampton Town. (It is not clear how many of these may be in the Villages.)

Other water-recreation

Several other forms of water-based recreation are listed, along with specific sites, in the 2003 Town Recreation Inventory including charter fishing boats, fishing piers, paddle sports, SCUBA, and Surfing/Windsurfing facilities.

Town of Southampton Trustees Blue Book

The Trustees’ “Blue Book”¹²⁴ provides a listing of public access points to beaches over which they have management authority—as well as rules and regulations over use of Trustee-operated boat ramps and for driving on beaches.

Boat Ramps

¹²³ Sector Management Ltd. 2003. Draft Town of Southampton Recreation Plan.

¹²⁴ Board of Trustees of the Freeholders and Commonality of the Town of Southampton, 2012. Rules and Regulations for the Management and Products of the Waters of the Town of Southampton.

A NY DEC survey¹²⁵ lists 38 boat ramps providing access to the various embayments within Southampton. Five of these are in Villages (two in Sag Harbor and one each in Westhampton, Quogue and Southampton Village) and four are private with Day-Use fees. The rest are public.

Other Water-related Recreation

Recreational hunting of waterfowl, fishing and shellfishing are done in the waters in and adjacent to Southampton Town. (The latter two are discussed more thoroughly in the Water Dependent Uses section.) Management of these resources within the south shore bays is under the jurisdiction of the Southampton Trustees. In Peconic and Gardiners Bays and the Atlantic Ocean, the NY Department of Environmental Conservation has jurisdiction.

Visual Public Access

For many residents and visitors, being able to see waterfront resources may be as important as being able to physically reach them. Visual Access is described in greater detail in the section on Scenic Resources, but should also be considered here. Construction of buildings or plantings along roadsides or in private yards may have significant impacts on the ability of visual access to public resources.

Issues and Analysis

Beaches

It is clear that residents and visitors to Southampton Town have access to an extensive number of beaches. Some residents and visitors are unclear about how to reach the beaches and where to park once they get there. Several of the roads leading to the beaches are under the management of the Trustees, but there have been misunderstandings about which ones they are and where appropriate parking exists along these roads. Better signage might help resolve this issue by directing visitors to appropriate parking and alleviating use of private areas for access.

Regular flooding on Dune road between East Quogue and the Shinnecock Inlet and on the access to Tiana Beach, can make it difficult for people to get to beach parking and for staff to get to work. The Town has completed an engineering plan to elevate Dune Road and has filed an application for a NY Department of Environmental Conservation Tidal Wetlands Permit for the project.

Jurisdictions

The Town Trustees operate under the mandate of the Dongan Patent which originally established ownership of lands in Southampton Town. Because of the importance of the legal rights guaranteed by this document, it would be useful to the public to have a better understanding of the Patent and how it is applied in current times. This could be done via brochures, a web page, and/or part of in-school education programs. Another possible option would be the development of an oral history of how the waters and associated resources have been important to the community in the past and how they are currently being used and managed (or if such an oral history already exists, make it better known).

Over the years, as the primary activities in Town have changed from fishing and farming to recreation and tourism, there seems to have been a shift in landowner perception and attitudes from water as a public resource to water as a visual and private amenity for adjacent property-owners. This may reflect a shift in cultural perspective from water as a community-owned resource to a commodity that can be bought and sold. It is important to emphasize that living adjacent to the water does not extend ownership

¹²⁵ NY DEC, NY Sea Grant. No Date. Boating the Marine Waters of Long Island.

into those waters. As an extension of these attitudes, public access conflicts can, in some cases, lead to legal actions with well-funded groups challenging either the Town or non-profit groups. Better understanding of public rights and jurisdictions might help alleviate these costly suits.

A second aspect of this issue is that some private landowners reportedly encroach on, or even block, legal public access ways, either purposefully or accidentally over time. Better understanding of public rights, as well as better signage, might help preclude such actions.

Boating

Public access should not focus solely on beach-goers but should also emphasize the abilities of boaters to reach and enjoy the waters of the Town. This includes maintenance of existing boat ramps, and encouragement for boating facilities—both public and private. Continuation of pump-out boats and facilities helps both boaters and environmental quality.

Policy 9: Provide for public access to, and recreational use of, the waterway, public lands, and public resources of the waterfront area.

Tidal waters, including open ocean and a myriad of embayments and creeks, make up both the northern and southern borders of the Town of Southampton. All of these tidal waters are “public”¹²⁶; managed in trust for the citizenry by the Town, Trustees or the State of New York.

Southampton’s unique scenic quality and sense of place are derived from the interrelationship land and water and the Town has worked hard to maintain coastal access and resources for the use of its citizens. Although there have been cases where development has diminished the potential for public access in certain areas, the remaining opportunities are important to realize.

Public access implies not only access to beaches but also to the public waters for boating, recreational shellfishing and fishing, and other uses on the water. It further includes visual access to such public amenities as the waters, beaches, and natural resources held by the public or in the public trust.

The purpose of this policy is to establish measures needed to maintain and, where appropriate, increase public access throughout the waterfront area. The need to maintain and improve existing public access and facilities is among these measures, and is necessary to ensure that use of existing access sites and facilities is optimized in order to accommodate existing and future demands.

9.1 Promote appropriate and adequate physical public access and recreation throughout the waterfront area.

- a. Provide convenient, well-defined, physical public access to and along the shoreline for water-related recreation.
- b. Maintain parking on public roadways that provide public access to beaches.
- c. Continue to maintain Town-owned and -operated beaches, beach parking facilities and other

¹²⁶ The public’s right to access and free passage along the foreshore areas of the Town of Southampton are primarily derived from what is known as the Public Trust Doctrine. The origins of the Public Trust Doctrine stem from Roman times, when it was recognized that there are three things common to all mankind: air, running water, and the sea (including the shores of the sea). Under the public trust, certain public rights such as navigation and fishing are reserved or held “in trust” for the common use and benefit of the public.

Town-managed public access points.

- d. Clearly mark acceptable parking areas, both in beach lots and along Town- and Trustee-managed roadways to beach areas.
- e. Maintain Dune Road in a manner that protects natural resources while allowing access to the beaches by the general public as well as emergency vehicles.
- f. Maintain, and where possible expand, public access for boating by managing existing boat ramps and encouraging the development of new boating facilities, including transient boat moorings, in appropriate areas.
- g. Incentivize private waterfront development to provide public access and/or water-related recreation facilities.
- h. Require public access as part of new development whenever such development is likely to limit public use and enjoyment of public coastal lands and waters.
- i. Restrict public access and water-related recreation on public lands only where incompatible with public safety and protection of natural resources. Continue the program to protect and manage shorebird nesting areas on the public beaches.
- j. Ensure access for the general public at locations where State or federal funds are used to acquire, develop, or improve parkland or beachfront resources.
- k. Improve public understanding of rights and responsibilities of access to public waters by making the citizenry aware of the provisions of the Dongan Patent, existence of public access ways, and possible infringement on those rights.
- l. Publicize and provide appropriate signage for public access and visual access.
- m. Provide information on responsible behavior in these areas in order to maximize long-term usage.
- n. Continue to make the public aware of the impacts on access and recreational usage due to modifications in public waters, including dredging, sand-mining and beach nourishment, public and private construction activities in and adjacent to public waters, and other such activities.
- o. Through outreach materials, workshops, etc., make the public aware of the concepts of the Public Trust and their rights in coastal waters, on public shorelines, and access-ways. Provide sufficient information, including signage, to minimize public intrusion onto private properties.
- p. Employ design criteria for structures along the water's edge (*e.g.*, docks, walkways, bulkheads, etc.) to ensure that longshore public access is maintained.
- q. Maintain and improve public access to and along the Shinnecock Canal.
- r. Encourage the establishment of a water taxi system to provide access to and among waterfront businesses.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 330, Zoning; General provisions

- Chapter 330, Zoning; Article XX Administration and Enforcement
- Chapter 140, Community Preservation Fund
- Chapter 123, Building Construction
- Chapter 292, Subdivision of Land; Article III General Application Procedures
- Southampton Board of Trustees “Blue Book” and related Town Law and regulations.

Implementation Through Projects:

1. Work with the Trustees, Highway Department, and other agencies and departments within the Town and State to maintain, improve, and create suitable public access areas. These should include, where appropriate, peeling back roadways and creating walkways, maintaining existing public parking that supports access to beaches, benches and rest areas with appropriate plantings (to include beach grass, etc.).
2. Prepare a comprehensive plan for Dune Road, the Town beaches, and road endings at the beaches to provide suitable parking, environmental protection, restrooms, and access for all members of the public with rights to the beach areas.
3. Develop and implement plans for a pedestrian bridge from the County-owned park parcels in Riverside to the Downtown Riverhead Park area as a means to improve economic revitalization in the area, foster an appreciation of nature and the Peconic River, and provide for public exercise.
4. Upgrade and enhance the Town marina facility located at 22 Joshua Fosters Oath, East Quogue to meet current environmental standards and established usage requirements.

Implementation Through Proposed Administrative Changes or Actions:

1. Designs of access ways through the dunes on ocean beaches should not be perpendicular to the shore, straight, flat openings; rather they should be diagonal to the shore, curved and/or mounded to minimize erosive impacts during storms or high water events.

9.2 Provide public visual access from public lands to waterfront lands and waters or open space at all sites where physically practical.

- a. Wherever possible, avoid loss of existing visual access and visual quality by limiting visual disruption from development, landscaping, or other activities on both public and private lands.
- b. Increase visual access wherever practical.
- c. Avoid siting or designing new structures in a manner that would significantly degrade visual access.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 330, Zoning; Article XIX, Architectural Review
- Chapter 330, Zoning; General provisions
- Chapter 330, Zoning; Article XX, Administration and Enforcement

- Chapter 325, Wetlands
- Chapter 140, Community Preservation Fund
- Chapter 123, Building Construction
- Chapter 292, Subdivision of Land; Article III, General Application Procedures
- Southampton Board of Trustees “Blue Book” and related Town Law and regulations.

Implementation Through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. Enact a Scenic Roadways Ordinance with emphasis on visual access to waterfront areas.
2. Make appropriate modifications to Chapter 325 of the Town Code to protect visual access.

9.3 Preserve the public interest in and use of lands and waters held in public trust by the State, and other public entities.

- a. Determine land ownership, riparian or littoral interests, and other legal rights prior to approving private use of current public trust lands and those formerly underwater.
- b. Limit grants of State-owned lands, now or formerly underwater, to exceptional circumstances.
- c. Reserve such interests or attach such conditions to preserve the public interest in use of underwater lands and waterways which will be adequate to preserve public access, recreation opportunities, and other public trust purposes.
- d. Regulate the construction or renovation of docks, bulkheads and other structures in public waters to preserve public rights to fishing, navigation, and other public trust purposes.
- e. Where possible, expand public use of the waters when reconstruction of in-water structures is proposed.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 330, Zoning; General provisions
- Chapter 330, Zoning; Article XX Administration and Enforcement
- Chapter 325, Wetlands
- Chapter 140, Community Preservation Fund
- Chapter 123, Building Construction
- Chapter 292, Subdivision of Land; Article III, General Application Procedures
- Southampton Board of Trustees “Blue Book” and related Town Law and regulations.

9.4 Assure public access to public trust lands and navigable waters.

- a. Ensure that the public interest in access below mean high water, along public ways and historic access-ways, along the oceanfront right of way held and managed by the Trustees,

and to navigable waters is maintained.

- b. Allow, but mitigate, obstructions to public access when necessary for the operation of water dependent uses.
- c. Permit interference with public access to and along the shore to the minimum degree necessary to allow riparian or littoral property access to navigable waters. Require mitigation for interference with public access. Include the following factors in determining the minimum access necessary: the size and nature of the water body, the types and intensities of uses of the water body by the public, the traditional means of access used by surrounding similar uses, and whether alternative means of access to navigable waters are available.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Southampton Board of Trustees “Blue Book” and related Town Law and regulations.
- Chapter 330, Zoning; General provisions
- Chapter 330, Zoning; Article XX, Administration and Enforcement
- Chapter 140, Community Preservation Fund
- Chapter 123, Building Construction
- Chapter 292, Subdivision of Land; Article III General Application Procedures

WATER-DEPENDENT USES AND THE SUSTAINABLE USE OF LIVING MARINE RESOURCES

The water-dependent commercial and recreational uses along Southampton's waterfront (see Figure 24), are integral to the Town's identity and fundamental to its economic vitality. These maritime activities harvest food from the sea, provide livelihoods for hundreds of people, and recreational opportunities for thousands of residents and visitors.

There are two concentrations of water-dependent businesses and facilities. The first is at the Shinnecock Canal area east of the Hamlet of Hampton Bays, which supports the largest concentration of water-dependent uses in Southampton and is the most suitable area for future expansion of such businesses and facilities. The second is at the Shinnecock Inlet, on the bay side of the east end of Westhampton Beach Island, which serves the second largest commercial fishing fleet in the South Shore Estuary.

There are about 42 marinas in the Town of Southampton, and an additional 14 in the incorporated villages. Most are concentrated in two areas: Hampton Bays and the Shinnecock Hills/Shinnecock Canal area. The marinas vary in size and type of boating services provided and are said to cater primarily to medium-size and larger pleasure craft. Most marinas and boatyards in Southampton are located in the Resort and Waterfront Business (RWB) zone, although many are non-conforming uses located in residential areas. Almost 70 percent of all RWB land is in the northeast end of Shinnecock Bay near the Ponquogue Bridge and immediately west and east of the Shinnecock Canal. These two areas support a total of 34 marinas and boatyards with a combined total of 1,447 rental slips.

The commercial deepwater finfishing industry is centered around the Shinnecock Commercial Fishing Dock located inside and to the west of Shinnecock Inlet. Trawlers are the most common type of vessel, but there are also clam dredge vessels, long-line fishing boats, lobster and gill-net boats.

The underwater lands of Southampton have supported a major commercial and recreational shellfishery, which remains a critical part of the economy of the Town. Shinnecock Bay, certified for commercial and recreational shellfishing, has significant populations of hard clams, soft clams, bay scallops, mussels, and crustacean blue crabs.

A shellfish aquaculture lease program is administered by the Suffolk County (Department of Planning) in Peconic Bay. The program is designed to increase investment in aquaculture; avoid conflicts with commercial fishing and other uses of the bay; and augment the natural harvestable populations of oysters, hard clams and bay scallops. The County controls both the location of shellfish farms through issuance of leases on underwater land within a 29,969 acre Shellfish Cultivation Zone (See Figures 26 and 27) and the extent and intensity of aquaculture use through limits on lease size and number.

Navigational Infrastructure

Water-dependent uses rely on direct vessel access to navigable water for their operations. The two most important navigational features in the planning area are the Shinnecock Inlet and Shinnecock Canal, the first a Federally-authorized navigation channel connecting Shinnecock Bay and the Atlantic Ocean, which requires regular maintenance dredging. The second is a nearly one-mile long navigable connection between Peconic Bay and Shinnecock Bay, which also directly serves a number of recreational boating facilities. Except for federal and privately maintained channels responsibility for dredging all channels is with the Suffolk County Department of Public Works. The county has performed 62 dredging projects in Southampton over the most recent decade. There are four upland and nine beach nourishment areas in Southampton where dredged material has been disposed in the past.

Issues and Analysis

Decline of the working waterfront

Displacement of traditional water dependent uses by residential and non-water dependent commercial uses diminishes an important economic base, source of employment, and community character. Stressors on environmental quality impact the productivity of marine resources relied upon by the harvesting industries. Planning, regulatory and programmatic tools to protect and expand working waterfront uses need to be strengthened.

Water Use and Access Issues

There is competition among different user groups and different types and sizes of vessels for use of embayment waters, navigation channels, and boating support and access facilities, including competition among commercial and recreational fishermen, pleasure boaters, personal watercraft users, swimmers and SCUBA divers, waterfowl hunters, charter fishing and excursion vessels, hand-propelled craft, and passenger ferries. Some of this competition is due to inadequate infrastructure such as docking and loading facilities, limited parking, and need for maintenance dredging. Loss of existing boat support facilities (for resident and transient boaters) exacerbates the problem. There are occasionally conflicts between public rights to use navigable water and the rights of littoral owners. Visual access to scenic views of the estuaries, bays and ocean is another quality of the community that can be diminished by private coastal development.

Recreational Boating

It is increasingly challenging for the marine industry, including marinas, to survive and locate in the Town because of economic pressures from competing land uses and the costs of maintaining waterfront infrastructure and navigational channels and fairways. In some instances, family-owned boatyards are in danger of being converted to another use because of the lack of family interested in continuing the business. Code amendments to better address marina site selection, a comprehensive assessment of dredging needs, water quality issues and pollution management is needed¹²⁷.

Fisheries

As with other waterfront uses, fisheries enterprises are negatively impacted by rising property values and property taxes which make it increasingly difficult to find affordable waterfront property for access and support services (*e.g.*, affordable dock space, upland storage areas, unloading and transfer areas, and repair facilities). The desirability for waterfront property has driven up real estate prices to a point that fishermen are finding it difficult or impossible to afford waterfront property. Hence, access to the water and related fishing industry related facilities is becoming increasingly difficult. Commercial fisheries are also affected by proximity to residential development, increasing the likelihood of interference with business practices and nuisance suits.

There is a need for additional support facilities for commercial fishermen, including affordable dock space, upland storage areas, unloading and transfer areas, and repair facilities. Displacement of commercial fishermen from private marinas is another increasing problem for fishermen.

A suitably-trained labor force will be required for the industry to remain competitive over time.

Mariculture offers the potential to revitalize commercial and recreational shellfishing.

¹²⁷ Town of Southampton, 1999. Southampton Tomorrow: Comprehensive Plan Update, Implementation Strategies.

Maintaining safe access to the port and its dockside facilities through the Shinnecock Inlet is an ongoing issue for the Shinnecock marine center. The condition of the access road to the port's commercial facilities, threatened by erosion and flooding, is an additional issue of concern.

Like many fishing communities in the northeast, the Southampton commercial fishing industry also faces the challenge of maintaining a suitably-trained labor force. Development of a local/regional market with direct sales to local consumers in addition to the wholesale market will add stability to the industry.

In addition to challenges related to access and maintaining a skilled labor force, the primary issue facing the Town's marine living resources is that of water quality. As described in greater detail in the Water Quality Strategy document chapter and in the Water Quality section of this Inventory and Analysis, the primary concern with regard to water quality is that of an overabundance of nutrients, largely stemming from inadequate wastewater treatment (*e.g.*, failing septic systems and inadequate nitrogen removal from existing systems).

Excessive nutrients have been linked to harmful algal blooms (HABs). Since the mid 1980s, several types of harmful algal blooms have been observed within the County's marine waters (*Aureococcus anophagefferens*, *Alexandrium fundyense*, *Cochlodinium polykrikoides*, and *Dinophysis acuminata*). These HABs can cause hypoxic (low dissolved oxygen) conditions, leading to fish kills, and can impair the functioning of marine life, such as the bay scallop, which was greatly affected by the brown tides of the mid 1980s. As filter feeders, the scallops expended a great deal of energy filtering the brown tide. Unable to digest the algae, the population declined to the point of near extinction. Efforts to restore the bay scallop population have had positive results, but the population remains vulnerable due to water quality issues.

Some of these algal blooms can also produce toxic compounds with human health impacts, such as saxitoxin (produced by *Alexandrium fundyense*) which causes Paralytic Shellfish Poisoning (PSP). This can lead to the closure of shellfish beds and loss of important fishing days.

HABs can also shade out important types of submerged vegetation. Eelgrass all along the Atlantic coasts of North America and Europe was already all but decimated in the 1930s by wasting disease, but the brown tide events of 1985–1987 and 1991 have been identified as the cause of the more recent decline in eelgrass abundance in the Peconic Estuary (Gobler, 2011¹²⁸; Stephenson, 2009¹²⁹). Loss of habitats such as eelgrass are linked to declines in important species of fish and shellfish, who rely on eelgrass beds as nursery grounds, foraging grounds, and refuges from predators.

Dredging

There is an ongoing need for maintenance dredging to help ensure navigation safety and the continued viability of water dependent activities and facilities, including dredging of federal, State, County, Town, and privately maintained channels and boat basins¹³⁰. Dredging is also needed in some areas for environmental, *e.g.*, water quality purposes. However, dredging is expensive and funding is becoming increasingly scarce; permitting can be time consuming and complicated, and upland and in-water disposal options (for material not suitable for beach nourishment) are limited. Enhanced coordination is needed among federal, State, County, Town and private dredging projects. Maintaining a strong economic base of water-dependent businesses is important for supporting the public benefit assessment in support of funding for dredging.

¹²⁸ Gobler, C. October 27, 2011. Personal Communication.

¹²⁹ Stephenson, L.B. 2009. Eelgrass Management Plan for the Peconic Estuary.

¹³⁰ NY Department of State. 1997. Dredging and Dredged Material Management.. Technical Report Series prepared for the South Shore Estuary Reserve.

Policy 10: Protect water dependent uses and promote siting of new water dependent uses in suitable locations, especially the maritime centers at Shinnecock Canal and at the Shinnecock Inlet.

Boating, fishing, and other water dependent uses are vital to the economy of the Town of Southampton, generating employment and tax revenues, preserving the community's historic maritime identity, enhancing waterfront views, and providing sustenance and recreation. These water dependent uses, and the facilities that support them, can only be conducted on and located in, over, or adjacent to a water body because such activity requires direct access to that water body as an integral part of its operations.

Maritime centers are identified in the Long Island South Shore Estuary Reserve (SSER) Comprehensive Management Plan. A "maritime center," for purposes of this Plan, has one or more of the following characteristics: a concentration of waterfront land uses establishing a center of maritime activity, including water dependent businesses supporting recreational boating, commercial fishing, or waterborne commerce; a history of traditional maritime uses; a maritime character or sense of place that is unique to the culture of the community; and/or a destination point for persons from outside of the local community. These areas contribute to the community's economy, maritime heritage, and character. The SSER Plan designated Shinnecock Canal as a major Maritime Center and Seatuck Cove and the Shinnecock Inlet as minor centers. Other concentrations of water-dependent uses, such as the area at the northern terminus of the Ponquogue Bridge and some of the Resort and Waterfront Business (RWB) districts, as well as locations that retain and exhibit historical and cultural elements of the community's maritime heritage, such as Conscience Point, should be designated as commercial or historical maritime centers and should be treated consistently with policies for maritime centers and historic and cultural resources.

This Policy's purpose is to protect and promote water dependent uses in those locations physically suited for such uses, which are unique and limited assets in coastal communities.

10.1 Protect existing water dependent uses.

- a. Adhere to zoning to protect marinas and other water dependent activities from conversion to other land uses.
- b. Avoid actions such as rezoning or conversion of existing Water Dependent Uses (WDU) to non-water dependent uses, especially residential, which would displace, adversely impact, or interfere with water dependent uses.
- c. Recognize the right of customary activities associated with water dependent uses to continue at existing locations¹³¹.

Implementation through Existing Local Law:

This Policy is presently being implemented through the following local law:

- Chapter 330, Zoning

Implementation through Proposed Changes to Local Laws:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

¹³¹ New York State law protects pre-existing water-dependent uses from nuisance suits. (New York Executive Law § 915-b. Water dependent uses.)

1. Rezone most areas where existing water dependent uses are in districts that do not permit water dependent uses (*e.g.*, at least a dozen marinas and a half-dozen yacht or boating clubs are in areas zoned residential)¹³².
2. Because there are no criteria in the Zoning Code that protect or give priority to water dependent uses, include new provisions [perhaps in Article XV Supplemental Use and Dimensional Regulations] pertaining to the protection (from displacement) of existing water dependent uses regardless of zoning district and the promotion of new water dependent uses in appropriate locations, *e.g.*, a provision that prohibits replacement of water dependent use(s) within a RWB zone with non-water dependent uses except as part of redevelopment that retains at least a similar amount and mix of water dependent uses.
3. Include specific provisions among the criteria above for any proposal to redevelop an existing facility that has slips available to the general public, to maintain the existing number (or percent) of such slips available to the public on-site, or at another suitable location in Southampton, or by contributing to a municipal fund dedicated to creating dockage available to the public.

10.2 Promote the Town's Maritime Centers as the most suitable locations for water dependent uses.

- a. Marinas and other water dependent uses should be located where infrastructure already exists and where the least new disturbance of natural waters and wetlands will be needed, as well as where the least amount of new and maintenance dredging will be necessary.
- b. Ensure that regulations, programmatic activities, and funding priorities support the continuation of maritime centers as centers for water dependent and water enhanced uses.
- c. Enhance the Resort-Waterfront Business area along the Shinnecock Canal with additional marina facilities and other water-based recreation, including passive recreation such as waterfront pedestrian access-ways along the water's edge, dock fishing, and visitor-oriented activities.
- d. Encourage the use of Waterfront Business Complexes, where appropriate, which promote water dependent/water enhanced uses and public access to the waterfront.
- e. Protect and enhance the economic, physical, cultural, and environmental attributes which support each maritime center.

Implementation through Existing Local Law:

This Policy is presently being implemented through the following local law:

- Chapter 330, Zoning

Implementation through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

¹³² Smith Creek has 6 parcels totaling more than four acres with water dependent uses.

North Sea has two parcels, totaling more than 4 acres. Mill Creek has three parcels. Old Fort Pond has two parcels. There is one parcel in each of the following areas: Flanders, Remensenburg, Sebonac Creek, and on Nautilus Drive.

1. Chapter 330-246. Strengthen the Resort and Waterfront Business (RWB) district and the Maritime Planned Development District regulations to more explicitly incorporate a requirement for public access to and along the waterfront. The Waterfront Business Complex (WBC) provisions are supportive of this, but development may occur in the RWB outside the WBC provisions.
2. Chapter 330-5. Add to the definition of water dependent use the following uses (which are used in the code): boatyard, ship and boat building and repairing, commercial fishing facilities; and consider adding: aquaculture facility and waterborne passenger transportation facilities. (The existing definition states that a water dependent use “shall be construed to include the following activities, facilities and establishments: marinas, yacht basins and all similar facilities which provide short-term and/or long-term dockage/berthing for recreational and commercial watercraft; fishing piers; party/charter/excursion boat services; boat and canoe rental; and public swimming beach, but not water-enhanced uses....”)
3. Chapter 330-246. Amend the Maritime Planned Development District table of permitted uses to exclude residential as a primary use and instead only allow for it as accessory to a water dependent/enhanced use.

Implementation through Projects:

1. Prepare a map showing the parts of the Town’s coastline that are suitable for water dependent uses in accordance with this policy. Identify sites that are physically suited for water dependent uses and where adverse impacts on natural resources and the surrounding neighborhood would be minimal

10.3 Allow for development of new or expanded water dependent uses outside of Maritime Centers.

- a. New or expanded water dependent uses may be appropriate outside Maritime Centers if the site is physically suited for the water dependent use, and if adverse impacts on natural resources and the surrounding neighborhood are minimal.
- b. For new or expanded water dependent uses, avoid areas that are environmentally sensitive; waterbodies with no history of dredging or major disturbance; shallow estuarine creeks, bays, or coves with poor flushing; rare species habitats; critical wildlife nesting and feeding areas; and productive shellfish areas.

Implementation through Existing Local Law:

This Policy is presently being implemented through the following local law:

- Chapter 330, Zoning

Implementation through Projects:

- a. Depict the Maritime Centers (both those identified in the SSER and those identified as part of this planning process) on the Southampton Water Protection Plan maps.
- b. Complete the project to raise and restore the Tupper Boathouse at Conscience Point in North Sea. The area was the town’s earliest port, providing access to the Peconic Bay and its shellfish and fish resources. The Boathouse was damaged when 30 inches of water flooded the structure’s first floor during Hurricane Sandy. In summer 2014, the town was awarded \$456,000 by the National Park Service to raise the building above the FEMA base flood

elevation and carry out a restoration. The Colonial Revival style structure, built in 1929 served as a boat building/repair facility and a showroom from 1930 to 1959. The building's future uses include public access, maritime education and interpretation of the area's maritime heritage and environmental significance.

Implementation through Proposed Administrative Changes or Actions:

- a. Seek a balance in the regulatory review process between resource protection and water dependent uses. The map of suitable locations should address the threshold question of suitability.

10.4 Minimize adverse impacts of new and expanding water dependent uses.

- a. Site new and expand existing water dependent uses where the following criteria apply:
 1. adequate upland exists for support facilities and services;
 2. sufficient waterside and landside access is available;
 3. appropriate nearshore depth is sufficient to minimize dredging;
 4. there is a suitable water quality classification;
 5. there will be minimal effects on wetlands, shellfish beds, or fish spawning grounds; and
 6. adequate water circulation exists.

Implementation through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 330, Zoning
- Chapter 325, Wetlands
- Southampton Board of Trustees "Blue Book" and related Town Law and regulations; Article VII, Dredging, Docks, Bulkheading and Channels.

Implementation through Proposed Changes to Local Laws:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

- Include water dependent uses as special exception uses in locations outside of RWB districts that meet the criteria for siting as mapped under 10.2 above.

10.5 Strengthen the ability of the marine industry, including marinas, to survive and locate in the Town.

- a. Allow non-water dependent accessory and secondary uses on sites where necessary to provide financial or operational support to enhance the economic viability of the principal water dependent use.

- b. Utilize tax incentives, such as partial exemption, use value assessment¹³³, public/private partnerships and other techniques as necessary to retain water dependent businesses.
- c. Provide technical assistance with permits and regulatory review procedures to support existing water dependent uses.

Implementation through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 330, Zoning
- Chapter 298, Taxation

10.6 Provide sufficient infrastructure for water dependent uses.

- a. Preserve existing public and private navigation lanes and channels by preventing interference from structures and maintaining depths consistent with the needs of water dependent uses as a priority use of public funds.
- b. Use suitable dredged material for beach nourishment, dune reconstruction, or other publicly beneficial uses.
- c. Provide for adequate services and facilities to support commercial, industrial, and recreational navigation.

Implementation through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Southampton Board of Trustees “Blue Book” and related Town Law and regulations; Article VII, Dredging, Docks, Bulkheading and Channels.
- Chapter 325, Wetlands
- Chapter 330, Zoning

Implementation through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws and other actions to better implement this Policy include the following:

1. Section VII of the Rules and Regulations for the Management and Products of the Waters of the Town of Southampton: Establish setback distances to provide a buffer between in-water structures and the boundaries of designated channels and fairways.

10.7 Promote efficient harbor operation.

See also the Harbor Plans section of this Water Protection Plan.

- a. Manage coastal and harbor waters to limit conflict between uses, foster navigational safety, and reduce potential hazards to navigation.
- b. Prohibit intrusions or encroachments upon navigation channels and other identified vessel use areas.

¹³³ New York State law provides for use value assessment of water-dependent uses.

Implementation through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Southampton Board of Trustees “Blue Book” and related Town Law and regulations; Article VII, Dredging, Docks, Bulkheading and Channels.
- Chapter 325, Wetlands
- Chapter 330, Zoning

Implementation through Proposed Changes to Local Law:

1. Define a numerical standard for separation between pier heads and channels and other navigation lanes.
2. To accommodate year-to-year reconfigurations of marina or yacht club docks, when issuing permits for private projects that include in-water structures, consider the approval to apply to an area within a defined “perimeter” rather than to a specific layout of docks and finger piers.
3. Amend Chapter 111, Beaches and Waterways, to change the definition of “Ocean Beach Area” by deleting “by the high-water mark of the Atlantic Ocean” and substituting “by the low-water mark of the Atlantic Ocean” and by inserting the following “This area” “, landward of the high-water mark,”.
4. Amend Chapter 325-4 A by inserting the following “...within the Town of Southampton” “, and bounding the Town of Southampton to a distance of 1500 feet from the low-tide mark of the Atlantic Ocean.”

Implementation through Projects:

1. Identify, designate and chart/map navigation fairways (between facilities and navigation channels) that will be kept free of obstructions to facilitate ease and safety of navigation.
2. Work with the Trustees and Town, State and Federal agencies/departments to create a comprehensive plan for dredging, including the identification of priority areas for dredging and suitable dredged material sites disposal sites. There should be an emphasis on beneficial uses of dredged material . As part of this process, prepare a working map overlay of the southerly bays and creeks within the Shinnecock and Moriches Bay complexes to include aerial photographs overlain on a composite tax parcel map, identifying Town-owned CPF and non-CPF lands.

Policy 11: Protect and promote sustainable use of living marine resources.

Living marine resources play an important role in the social and economic well-being of the Town of Southampton. Commercial and recreational harvesting of fish and shellfish provides high-protein food sources and contributes to the Town’s economic base. Fishing and shellfishing also provide high quality outdoor recreational experiences for residents and visitors.

Sustaining living marine resources in coastal waters depends on protection, conservation, and restoration of habitat, as well as maintenance and improvement of water quality. The Trustees have ownership of the land under the waters of the Town and have authority to manage the Town’s shellfish resources. As such, the Trustees play an integral role in the status of the resource as well as the habitat and the fisheries.

11.1 Ensure the long-term maintenance and health of living marine resources.

- a. Promote sustainability of the Town's finfish and shellfish resources and their habitats as well as the resources and habitats on which the Town's commercial and recreational fisheries depend.
- b. Manage commercial and recreational uses of living marine resources to ensure sustained usable abundance and diversity. Continue to develop and implement marine resource management strategies (*e.g.*, management plans, stocking and seeding activities, restoration of migratory fish passages, seeding to improve spawning, etc.) for both finfish and shellfish resources in the Town. These strategies should be based upon the best available science, should be adaptive, and should strive to maintain the long-term sustainability of the resources.
- c. Foster abundance of marine resources by protecting spawning grounds, habitats, and water quality; and enhancing and restoring fish and shellfish habitat, particularly for diadromous fish, oysters, and hard clams.

Implementation through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 138, Coastal Erosion Hazard Areas, Article II: Restrictions on Regulated Activities, §138-16 Erosion protection structures and artificial beach nourishment, Subsection C
- Chapter 138, Coastal Erosion Hazard Areas, Article IV: Variances and Appeals, §138-22 Criteria for variances, Subsection B
- Chapter 158, Environmental Savings Fund, §158-1 Environmental Savings Fund
- Chapter 229, Protection of Natural Resources
- Chapter 231, Nature Preserve, Article I: General Provisions, §231-2 Purpose and public policy
- Chapter 285, Stormwater Management and Erosion and Sediment Control
- Chapter 292, Subdivision of Land, Article X: Design Standards, §292-39 Preservation and protection of natural environment
- Chapter 315, Moratorium: Hampton Bays, §315-1 Legislative intent, Subsection Q
- Chapter 325, Wetlands, §325-2 Findings, Subsection B, §325-9 Standards for issuing a permit
- Chapter 330, Zoning, Article VIII: Tidal Wetlands and Ocean Beach Overlay District
- Chapter 330, Zoning, Article IX: Coastal Erosion Hazard Adjacent Areas, §330-46.1 General standards for issuance of permit
- Chapter 330, Zoning, Article IX: Coastal Erosion Hazard Adjacent Areas, §330-46.4 Erosion protection structures and artificial beach nourishment
- See Section 3, Policy 5 (Water Quality) for laws implementing water quality protection and monitoring

Implementation through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. Chapter a340, Management of Town Waters: Amend to reference and define sustainability.

Implementation through Projects:

1. Continue to monitor and mitigate water quality in areas which affect shellfish resources, including upland activities that impact water quality.
2. Continue to increase the public's awareness of the role of finfish and shellfish resources in the economy and the local ecosystem, including the water-filtering benefits of shellfish.

Implementation through Proposed Administrative Changes or Actions:

1. Continue to implement zone management strategies and spawning sanctuaries.
2. Continue to conduct seed clam planting programs to enhance commercial and recreational fisheries in selected areas where economically feasible and where a high survival rate is expected.
3. Use only shellfish from qualified labs.

11.2 Provide for commercial and recreational use of marine resources.

- a. Maximize the benefits of marine resource use so as to provide a valuable recreational resource experience and viable business opportunities for commercial and recreational fisheries.
- b. Where fishery conservation and management plans require actions that would result in resource allocation impacts, ensure equitable distribution of impacts among user groups, giving priority to existing fisheries.
- c. Protect the public health and the marketability of marine and fishery resources by monitoring, maintaining and improving water quality.
- d. Promote ecotourism as a way to increase the public's exposure to and appreciation of the natural marine resources of the Town.

Implementation through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 111, Beaches, Parks and Waterways, Article 1: Beaches, Parks, and Recreation Centers, Article 2: Use of Waterways,
- Chapter 138, Coastal Erosion Hazard Areas
- Chapter 229, Protection of Natural Resources
- Chapter 231, Nature Preserve
- Chapter 325, Wetlands
- Chapter 330, Zoning, Article VIII: Tidal Wetlands and Ocean Beach Overlay District, Article IX: Coastal Erosion Hazard Adjacent Areas, Article XVII: Special Exception Uses

- See Section 3, Policy 5 (Water Quality) for laws implementing water quality protection and monitoring

11.3 Maintain and strengthen a stable commercial fishing fleet.

- a. Protect commercial fishing from interference or displacement by competing land and water uses.
- b. Protect and strengthen commercial fishing harvest operations, facilities, and waterfront infrastructure (*e.g.*, increased pack-out facilities and local fuel options for fishing vessels) to support a stable commercial fishing industry.
- c. Ensure safe navigation for fishermen, including dredging where necessary.

Implementation through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 111, Beaches, Parks and Waterways, Article II: Use of Waterways
- Chapter 111, Beaches, Parks and Waterways, Article VI: Construction in and Adjacent to Town Waters and Beach Areas
- Chapter 317, Moratorium on Conversions to Residential Condominiums or Cooperatives §317-1 Legislative intent, Subsection E
- Chapter 330, Zoning, Article VIII: Tidal Wetlands and Ocean Beach Overlay District, §330-40 Tidal wetlands regulations
- Chapter 330, Zoning, Article XVII: Special Exception Uses

Implementation through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. See proposed regulatory changes under Policy 10 regarding prohibition of displacement of water-dependent uses.

Implementation through Projects:

1. Improve existing, and support expansion of, fishing operations and facilities for offshore commercial fishing accessible to Shinnecock Inlet.
2. Support marketing of local seafood.
3. Elevate Dune Road to enable commercial trucks carrying seafood to access the road during high tide.

11.4 Promote recreational use of marine resources.

- a. Provide adequate infrastructure to meet recreational needs, including appropriate fishing piers, dockage, ramps, small boat launching areas, and parking.
- b. Improve understanding of recreational opportunities for the use of the marine resources, including recreational fishing regulations, guides on access points, best management practices, etc.
- c. Ensure safe conditions for recreational uses of marine resources.

Implementation through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 60, Parks and Recreation Advisory Committee, §60-5 Duties; responsibilities
- Chapter 111, Beaches, Parks and Waterways, Articles III Beaches, Parks and Recreation Centers
- Chapter 150, Dogs and Other Animals, §150-5.1 Dogs or domestic animals at beaches, parks, trails and recreation centers Chapter 312
- Chapter 229, Protection of Natural Resources
- Chapter 312, Vehicles and Traffic, Article V: Parking Prohibited in Designated Locations, Article VI: Parking Time Limited in Designated Locations, Article VII: Seasonal Parking Restrictions in Designated Locations, Article X: Parking-by-Permit-Only Areas, Article XII: Parking Lots, Article XXIV: Commercial Vehicle Exclusions

Implementation through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. See proposed regulatory changes under Policy 10 regarding waterfront infrastructure.

11.5 Promote managed harvest of shellfish.

- a. Restrict shellfishing to Town waters certified for the taking of shellfish by the Trustees and by the Department of Environmental Conservation of the State of New York.
- b. Maintain or restore populations of shellfish stocks at levels that can produce the maximum sustainable yield.
- c. Maintain sufficient shellfish spawning stock in harvest areas to sustain the resource while reducing the likelihood of illegal harvesting. Modify the amount of shellfish that can be taken or the method or equipment that can be used in taking shellfish, as necessary, to protect shellfish propagation efforts and/or an endangered shellfish supply.

Implementation through Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 111, Beaches, Parks and Waterways, Article II: Use of Waterways
- Chapter 229, Protection of Natural Resources
- Chapter 278, Shellfish
- Chapter A340, Management of Town Waters

Implementation through Projects:

1. Continue to develop and implement shellfish management plans to promote the sustainability of the resource, and identify areas for specific enhancement.
2. Work with the Cornell Cooperative Extension (CCE) and the Shinnecock Bay Restoration Program to perform regular population sampling studies of shellfish in Shinnecock Bay to provide information on the abundance, health, and dispersal of the resource.

11.6 Promote aquaculture.

- a. Protect native stocks from potential adverse biological impacts due to aquaculture.
- b. Restore shellfish populations through seeding programs with emphasis on rehabilitating low productivity areas based on scientific investigations.
- c. Provide for the removal of damaged aquaculture gear to reduce impacts to the habitat and to other users of the water.
- d. Support small-scale aquaculture in Shinnecock and Moriches bays.

Implementation through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 111, Beaches, Parks and Waterways, Article II: Use of Waterways
- Chapter 229, Protection of Natural Resources
- Chapter 278, Shellfish
- Chapter A340, Management of Town Waters

Implementation through Proposed Changes to Local Law:

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. Chapter 111, Beaches, Parks and Waterways, Article II: Use of Waterways, §111-15 Navigational Hazards: Amend to include the removal of fishing gear, including aquaculture gear, if it becomes a navigational hazard.
2. Chapter A340, Management of Town Waters: Amend to formalize aquaculture licensing procedure and requirements, including a provision that conditions license renewal on the removal of derelict gear.

Implementation through Projects:

1. Work with the County and Trustees to improve and streamline the permitting and leasing of shellfish aquaculture plots.

AGRICULTURE

Agriculture has been, and remains, an important part of the Town's economy and character and the lands dedicated to this use are a resource to be preserved to assure a long term, sustainable human environment for the Town. Protecting the remaining agricultural land in Southampton is necessary to ensure preservation of the Town's and the East End's agricultural economy, 300+ year farming heritage, open space, scenic quality, and sustainable economy.

As stated in Southampton's 1999 Comprehensive Plan Update, agriculture is central to the character and economy of the Town. Agriculture supports not only its own industry, but the tourism and second home industries as well, for without the scenic qualities of farmland and the sense that Southampton is a rural, agricultural community, the Town would lose some of its appeal as a tourism and second home destination.

The preservation of the Town's agricultural economy and tradition should be viewed within the context of the agricultural economy of the east end of Suffolk County. Suffolk County's agricultural land, of which the Town's is a significant part, is among the most productive in the State. Protecting these agricultural lands is critical for four major reasons:

- Suffolk County soils are the richest and most productive soils in the state. If these agricultural lands are not further protected, development, particularly residential, is expected to continue to encroach upon agricultural lands impairing the viability of the agriculture industry.
- The county's agricultural products are diverse and unmatched by any other of the State's regions. The insulating coastal climate, extended growing season, fertile soils, and moderately sloping topography, provide ideal growing conditions for tree and shrub nurseries, fruits, vegetables, and vineyards.
- Suffolk County's agricultural economy is highly productive, leading all other counties in the State in wholesale value of agricultural products sold, and is a major part of region's economy.
- Suffolk County's agriculture also provides scenic and open space values that contribute to and define much of the special regional character and sense of place that attracts visitors to eastern Long Island including the Town of Southampton.

Historically, most of the Town's agricultural activity has been in the eastern half of Town, which has also become the focus of agricultural land preservation efforts. Agriculture in the western portion of Southampton has been limited by sandier, less productive soils, the Pine Barrens, and relatively dense settlement patterns. However, clusters of farmland still remain, primarily north of Montauk Highway in East Quogue north of Lewis Road, and in the Speonk/Remsenburg area.

An inventory of farmland completed in 1997–1998 by the Department of Land Management, in conjunction with the Peconic Land Trust and the Farmland Committee, revealed that the amount of farmland remaining in Southampton was approximately 8,527 acres (8.5 percent of the Town's land area). Thirty-one percent of this agricultural land is protected from development. According to the 1999 Southampton Comprehensive Plan Update, between 1970 and 1995, approximately 3,273 acres, or 27.7 percent of the Town's farmland, were developed or removed from active production—an annual loss of 121.2 acres.

Important sectors of agriculture in Southampton are family farms, horse farms, vineyards, and nurseries.

The Town and its partners have created, and are implementing, a range of regulatory and programmatic approaches to preserving and increasing agriculture.

These include the purchase of development rights by the State, County, Town and private land trusts; the Town's Agricultural Overlay District; and the New York State Agricultural District Program have been employed to preserve agricultural lands and production in the Town—with the loss of these lands primarily due to residential development.

In 1972 Southampton established an Agricultural Overlay District in its Zoning Law, covering 13,550 acres of the most productive agricultural soils. An inventory of farmland completed in 1998 revealed that 8,474 acres of agricultural land remained in the overlay district, and currently 4,763 acres remain. The district serves as the target area for the Town's Community Preservation Project Plan, which currently identifies 4,252 acres of farmland among its highest priorities for protection. A significant amount of this is in the coastal area covered by this Water Protection Plan.

Another regulatory tool is the Planned Residential Development provisions of the Southampton Zoning Law which requires clustering of subdivision lots and preservation of the remaining land.

As of 1999, the Town and County "purchase of development rights" programs had preserved roughly 17.46 percent of the existing agricultural land base, with subdivision reserves and private land trusts preserving another 12.17 percent.

The Town's agricultural reserve program, implemented and managed by the Town Planning Board, Farmland Committee, and Town Board had preserved 893 acres of agricultural land in new subdivisions as of 1999.

Land currently in agriculture is shown on Map x

Issues and Analysis

Farmland retention and preservation requires attention to the needs and concerns of the agricultural industry in Southampton. These issues, identified in the Comprehensive Plan include:

- Rising property values; taxes, both property and inheritance
- Conflicts with adjacent uses, especially residential
- Environmental concerns and a supportive regulatory regime
- Development of strong local and regional markets
- Transportation planning that accommodates needs of farming

While substantial lands have been protected for agricultural use, not all lands so protected are being used for agricultural purposes or for the most productive traditional crops. The agricultural land is protected but the local agricultural industry is not supported. When agricultural land or its development rights is being acquired consideration could be given to including incentives to keep the agricultural land in production for crops that have traditionally characterized Southampton agriculture.

Policy 12: Protect agricultural lands in the Southampton coastal area.

The intent of this policy is to conserve and protect agricultural land and production in the Town of Southampton by preventing the conversion of farmland to other uses and by supporting existing and potential agricultural production and its necessary support services.

Agriculture has been, and remains, an important part of the Town's economy and character and the lands

dedicated to this use are a resource to be preserved to assure a long term, sustainable human environment for the Town. Various public programs, such as the purchase of development rights by the State, County, Town and private land trusts; the Town's Agricultural Overlay District; and the New York State Agricultural District Program have been employed to preserve agricultural lands and production in the Town—with the loss of these lands primarily due to residential development. Protecting the remaining agricultural land in Southampton is necessary to ensure preservation of the Town's and the East End's agricultural economy, 300+ year farming heritage, open space, scenic quality, and sustainable economy. In the local law protecting agricultural practices, the Town's policy is stated, "It has long been the policy of the Town Board of the Town of Southampton to conserve, protect and encourage the use of its agricultural land for the production of food and other agricultural products" (Chapter 161 of the Town Code).

The preservation of the Town's agricultural economy and tradition should be viewed within the context of the agricultural economy of the east end of Suffolk County. Suffolk County's agricultural land, of which the Town's is a significant part, is among the most productive in the State. Protecting these agricultural lands is critical for four major reasons:

- Suffolk County soils are the richest and most productive soils in the State. If these agricultural lands are not further protected, development, particularly residential, is expected to continue to encroach upon agricultural lands impairing the viability of the agriculture industry.
- The county's agricultural products are diverse and unmatched by any other of the State's regions. The insulating coastal climate, extended growing season, fertile soils, and moderately sloping topography, provide ideal growing conditions for tree and shrub nurseries, fruits, vegetables, and vineyards.
- Suffolk County's agricultural economy is highly productive, leading all other counties in the State in wholesale value of agricultural products sold, and is a major part of region's economy.
- Suffolk County's agriculture also provides scenic and open space values that contribute to and define much of the special regional character and sense of place that attracts visitors to eastern Long Island including the Town of Southampton.

12.1 Protect existing agriculture and agricultural lands from conversion to other land uses.

- a. Protect existing agricultural use and production from adverse impacts due to: public infrastructure and facility development; creation of other conditions which are likely to lead to conversion of agricultural lands; and environmental changes which are likely to reduce agricultural productivity or quality, including, but not limited to, quantitative and qualitative changes to groundwater resources.
- b. Provide sufficient buffers as part of new development when it is located near agricultural land.
- c. Maintain programs for the purchase of development rights by the State, County and Town. Encourage and provide incentives that favor crop production.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 247; 23–25, Agricultural Use Agreements
- Chapter 140, Community Preservation Fund
- Chapter 330; 47–51, Agricultural Overlay District
- Chapter 247; 26–28, Agricultural Advisory Committee
- Chapter 161; 3, Protection of Agricultural Activities
- Chapter 247; 7, D, Planned Residential Development, Agricultural Open Space
- Chapter 247; 8, Farmland and Watershed Protection
- Chapter 292; 39, Subdivision, Preservation and Protection of the Natural Environment

Implementation Through Projects:

1. Continue to use Community Preservation Funds to acquire agricultural land development rights.

12.2 Establish and maintain favorable conditions which support existing or promote new coastal agricultural production.

- a. Promote new, and maintain existing, local services and commercial enterprises necessary to support agricultural operations.
- b. Provide economic support of existing agriculture by allowing mixed uses which would assist in retention of the agricultural use.
- c. Limit the sales from farm stands to primarily local produce and products.
- d. Promote activities and market conditions that would likely prevent conversion of farmlands to other land uses.
- e. Protect agricultural practices of pre-existing agriculture from nuisance suits.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 330; 79.1, Accessory Farmstand
- Chapter 247; 23–25, Agricultural Use Agreements
- Chapter 140, Community Preservation Fund
- Chapter 330; 47–51, Agricultural Overlay District
- Chapter 247; 26–28, Agricultural Advisory Committee
- Chapter 161; 3, Protection of Agricultural Activities
- Chapter 247; 7, D, Planned Residential Development, Agricultural Open Space
- Chapter 247; 8, Farmland and Watershed Protection
- Chapter 292; 39, Subdivision, Preservation and Protection of the Natural Environment

12.3 Minimize adverse impacts on agriculture from conversion of agricultural land.

- a. Minimize encroachment of commercial, industrial, institutional, or residential development on agricultural lands.
- b. Retain or incorporate opportunities for continuing agricultural use.
- c. Locate and arrange development to maximize protection of the quality agricultural land in large contiguous tracts for efficient farming.
- d. Adhere to the substantive provisions of the Agricultural Overlay District.
- e. Allow farms to operate using appropriate modern techniques and structures.
- f. Require prime agricultural soils that are excavated to be redistributed on the site.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 330; 79.1, Accessory Farmstand
- Chapter 247; 23–25, Agricultural Use Agreements
- Chapter 140, Community Preservation Fund
- Chapter 330; 47–51, Agricultural Overlay District
- Chapter 247; 26–28, Agricultural Advisory Committee
- Chapter 161; 3, Protection of Agricultural Activities
- Chapter 247; 7, D, Planned Residential Development, Agricultural Open Space
- Chapter 247; 8, Farmland and Watershed Protection
- Chapter 292; 39, Subdivision, Preservation and Protection of the Natural Environment

12.4 Preserve scenic and open space values associated with the Town's agricultural lands.

- a. Locate and arrange development to maximize protection of agricultural land in large contiguous tracts in order to protect associated scenic and open space values.
- b. Avoid obstructions such as hedges and fences that unnecessarily block views of agricultural lands or adjacent shoreline from public roads.

Implementation Through Existing Local Law:

This Policy is presently being implemented through the following local laws:

- Chapter 330; 79.1, Accessory Farmstand
- Chapter 247; 23–25, Agricultural Use Agreements
- Chapter 140, Community Preservation Fund
- Chapter 330; 47–51, Agricultural Overlay District
- Chapter 247; 26–28, Agricultural Advisory Committee

- Chapter 161; 3, Protection of Agricultural Activities
- Chapter 247; 7, D, Planned Residential Development, Agricultural Open Space
- Chapter 247; 8, Farmland and Watershed Protection
- Chapter 292; 39, Subdivision, Preservation and Protection of the Natural Environment

Implementation Through Proposed Changes to Local Law

Specific recommendations for amendments to local laws to better implement this Policy include the following:

1. Chapter 261; 1 B: Modify standards to prohibit unnecessary blocking of views by hedges and fences.

ENERGY AND MINERAL RESOURCES

Policy 13: Promote appropriate use and development of energy and mineral resources.

The Town of Southampton is a signatory to the US Conference of Mayors Climate Action agreement, which commits participating municipalities to strive to meet or beat the Kyoto Protocol targets in their own communities. The Town Sustainability Plan¹³⁴ was prepared with these standards in mind and provides a series of strategies to meet them. As of November 2014, the Town is in the process of developing a Climate Action Plan which is expected to contain additional strategies related to energy use and development.

13.1 Conserve energy resources.

- a. Incorporate the recommended tactics/actions of the Sustainability Plan and the Climate Action Plan (when completed and accepted) when reviewing activities involving energy resources.
- b. Promote and maintain energy-efficient modes of transportation, including waterborne transportation, rail and intermodal facilities, mass transit, and alternative forms of transportation.
- c. Plan and construct sites and buildings in the waterfront area using energy efficient design.
- d. Achieve carbon neutrality through a combination of conservation, efficiency, and alternative energy sources.

13.2 Promote alternative energy sources that are self-sustaining, including solar and wind-powered energy generation.

13.3 Ensure maximum efficiency and minimum adverse environmental impact when siting energy generating facilities.

- a. Site energy generating facilities in a coastal location where a clear public benefit is established.
- b. Site and construct new energy generating and transmission facilities so they do not adversely affect natural and economic coastal resources.
- c. In siting alternative energy facilities, avoid adverse impacts from interference with coastal resources, including migratory birds and coastal processes.
- d. Where possible, limit the use of pesticides used with ground-mounted solar arrays.

13.4 Minimize adverse impacts from fuel storage facilities.

- a. The production, storage, or retention of petroleum products in earthen reservoirs should be prohibited during the environmental review process.
- b. Protect natural resources by preparing and complying with an approved oil spill contingency plan.

¹³⁴ Perkins + Will. 2013. Southampton 400+ Sustainability Element, Addendum to the Town of Southampton Comprehensive Plan.

13.5 Minimize adverse impacts associated with mineral extraction.

- a. Commercial sand and aggregate mining is generally presumed to be an inappropriate use in the Town of Southampton waterfront area for the purposes of regulatory review and planning activities.
- b. Preserve topsoil and overburden using appropriate site preparation techniques and subsequent site reclamation plans.

13.6 Consider the energy and carbon recommended tactics and actions incorporated into accepted Town Planning documents

- a. Incorporate the recommended tactics/actions of the Sustainability Plan, Climate Action Plan (when completed and accepted), and any other Town-accepted Plans when reviewing activities involving energy resources.



SECTION 3: PROPOSED LOCAL CONSISTENCY LAW

SOUTHAMPTON CONSISTENCY REVIEW LAW

The following draft proposed local law is intended to assure that the actions of Town agencies are undertaken in a manner that is consistent with the policies and purposes of the Town of Southampton Water Protection Plan. The proposed law does not add any new or additional review procedures but is designed to incorporate the consideration of the Plan's policies into existing review procedures. The law will allow agencies to consider the effects of their decisions on the policies of the Town as reflected in the adopted Southampton Water Protection Plan. The assistance of Town Land Management staff will occur as it does now, but may include additional considerations to reflect the policies of the Plan. Additionally the proposed law provides for exceptions to its application in order to avoid any duplication of effort, to avoid review of actions with minimal effects, and to allow for consideration of overriding public benefits. Having this law in place will allow the Town to review and be assured that federal and State actions are also reviewed against the policies of the Town of Southampton. For the purposes of this proposed law, the Town Trustees are not considered a Town agency.

Proposed Consistency Review Law

GENERAL PROVISIONS

I. Title.

This Local law will be known as the Town of Southampton Local Water Protection Plan Consistency Review Law.

II. Authority and Purpose

A. This local law is adopted under the authority of the Municipal Home Rule Law, Town Law, and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).

B. The purpose of this local law is to provide a framework for agencies of the Town of Southampton to incorporate the policies and purposes contained in the Town of Southampton Water Protection Plan (SWPP), a Local Waterfront Revitalization Program (LWRP) pursuant to Article 42 of the Executive Law when reviewing applications for actions or direct agency actions within the coastal area; and to assure that such actions and direct actions by Town agencies are consistent with the SWPP policies and purposes.

C. It is the intention of the Town of Southampton that the preservation, enhancement, and utilization of the unique coastal area of the Town take place in a coordinated and comprehensive manner to ensure a proper balance between protection of natural resources and the need to accommodate population growth and economic development.

Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of coastal resources and areas while preventing loss and degradation of living coastal resources and wildlife; diminution of open space areas or public access to the waterfront; disruption of natural coastal processes; impairment of scenic, cultural or historical resources; losses due to flooding, erosion and sedimentation; impairment of water quality; or permanent adverse changes to ecological systems.

D. The substantive provisions of this local law shall only apply when the Town of Southampton Local Water Protection Plan, a Local Waterfront Revitalization Program, has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

III. Definitions

A. "Actions" include all the following, except minor actions:

(1) projects or physical activities, such as construction or any other activities that may affect natural, manmade or other resources in the coastal area or the environment by changing the use, appearance or condition of any resource or structure, that:

(i) are directly undertaken by an agency; or

(ii) involve funding by an agency; or

(iii) require one or more new or modified approvals, permits, or reviews from an agency or agencies;

(2) agency planning and policy-making activities that may affect the environment and commit the agency to a definite course of future decisions;

(3) adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect coastal resources or the environment; and

(4) any combination of the above.

B. "Agency" means any board, agency, department, office, other body, or officer of the Town of Southampton. "Agency" does not include the Southampton Board of Trustees except as they may be acting under a delegation of authority from the Town of Southampton Town Council.

C. "Administrator of Land Management" means the person employed by the Town of Southampton who is in charge of the Town's Department of Land Management.

D. "Coastal area" means that portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the Town of Southampton, as shown on the coastal area map on file in the office of the Secretary of State and as delineated in the Town of Southampton Water Protection Plan. For the purpose of determining

consistency with the water quality policy of the Town of Southampton Water Protection Plan, the coastal area includes the entire Town of Southampton.

E. "Coastal Assessment Form (CAF)" means the form, a sample of which is appended to this local law, prepared and used by an agency to assist in determining the consistency of an action with the Southampton Water Protection Plan.

F. "Consistent" means that the action will fully comply with the Southampton Water Protection Plan policy standards, conditions and objectives and, whenever practicable, will advance one or more of them.

G. "Direct Actions" mean actions planned and proposed for implementation by an agency, such as, but not limited to a capital project, rule making, procedure making and policy making.

H. "Environment" means the physical conditions that will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, resources of agricultural, archeological, historic or aesthetic significance, existing patterns of population concentration, distribution or growth, existing community or neighborhood character, and human health.

I. "Local Waterfront Revitalization Program" or "LWRP" means the Water Protection Plan of the Town of Southampton, as approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Town Clerk of the Town of Southampton.

J. "Minor actions" include the following actions, which are not subject to review under this chapter:

- (1) maintenance or repair involving no substantial changes in an existing structure or facility;
- (2) replacement, rehabilitation or reconstruction of a structure or facility, in-place and in-kind, on the same site, including upgrading buildings to meet building or fire codes;
- (3) agricultural farm management practices, including construction, maintenance, and repair of farm buildings and structures and land use changes consistent with generally accepted principles of farming;
- (4) repaving or widening of existing paved highways not involving the addition of new travel lanes;
- (5) street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
- (6) maintenance of existing landscaping or natural growth, except where threatened or endangered species of plants or animals are affected, or within Significant Coastal Fish and Wildlife Habitat areas;
- (7) granting of individual setback and lot line variances, except in relation to a regulated natural feature or a bulkhead or other shoreline erosion protection structure;
- (8) minor temporary uses of land having negligible or no permanent impact on coastal resources or the environment;
- (9) installation of traffic control devices on existing streets, roads and highways;
- (10) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
- (11) information collection including basic data collection and research, water quality and

- pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any action;
- (12) official acts of a ministerial nature involving no exercise of discretion, including building permits where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building code;
 - (13) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
 - (14) conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;
 - (15) collective bargaining activities;
 - (16) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
 - (17) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;
 - (18) purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, storage of road de-icing substances, or other hazardous materials;
 - (19) adoption of regulations, policies, procedures and local legislative decisions in furtherance of any action on this list;
 - (20) engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this Part have been fulfilled;
 - (21) civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;
 - (22) adoption of a moratorium on land development or construction;
 - (23) interpreting an existing code, rule or regulation;
 - (24) designation of local landmarks or their inclusion within historic districts;
 - (25) emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to coastal resources or the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this Part;
 - (26) local legislative decisions such as rezoning where the Town of Southampton determines the action will not be approved;
 - (27) decisions authorized to be made administratively pursuant to Chapter 325.7B;
 - (28) decisions made administratively pursuant to Chapter 330-183.

K. "Waterfront area" means the lands and waters within the Town of Southampton's jurisdiction as described in the Town of Southampton Water Protection Plan Section I, Boundary. This area is synonymous with the New York State Coastal Boundary upon the Secretary of State's approval of the Southampton Water Protection Plan as a Local Waterfront Revitalization Program pursuant to Article 42 of the Executive Law.

IV. Review of Actions.

A. Whenever a proposed action is located within the Town's coastal area, each Town agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards summarized in Subparagraph J herein. The agency shall utilize existing procedures, as much as practical, for review of actions when reviewing an action for consistency with the SWPP policies. No action in the waterfront area shall be approved, funded or undertaken by that agency without such a determination. If it is determined that an action is not consistent with the policies, the action shall not be undertaken unless it is modified to be consistent or a finding is made pursuant to paragraph F below.

B. Whenever a Town agency receives an application for approval or funding of an action, or as early as possible in the agency's formulation of a direct action to be located in the coastal area, the agency shall notify the Town Administrator of Land Management through existing procedures established for consultation with the Department of Land Management. The Administrator of Land Management shall cause to be completed a Coastal Assessment Form to assist in determining the effects of the action on achievement of the Policies of the Plan and make recommendations to the agency. The agency shall consider any recommendations received regarding the consistency of the proposed action.

C. If an action requires approval of more than one Town agency, decision-making will be coordinated between the agencies to determine which agency will conduct the final consistency review, and that agency will thereafter act as the designated consistency review agency. Only one CAF per action need be prepared. If the agencies cannot agree, the Administrator of Land Management shall designate the consistency review agency.

D. *Waiver of an individual consistency review for a specific permit action:* The Agency may determine that a project-specific consistency review is not required upon making a written finding that the action will not be inconsistent with the policies of the SWPP because it has *de minimus* effects on achievement of the policies of the SWPP. In order to make a finding of *de minimus* effects the Agency shall find that the action meets all of the following conditions:

- a) The activity involves a use that is the same as, or similar to, adjacent or nearby uses;
- b) The activity is compatible with community character in design, size, and materials;
- c) The activity involves reconstruction, replacement, maintenance or repair of lawful structures, in place;
- d) Other than for the exercise of riparian or littoral rights (see e, below), the activity is entirely on property owned or otherwise authorized by the owner for use by the proponent of the activity;
- e) The activity involves the exercise of riparian or littoral rights that is typical of lawful riparian or littoral access traditionally exercised in the area; complies with any applicable local standards; and avoids any unnecessary interference with navigation and other public uses of the water;

- f) The activity would not significantly impair the rights and interests of the public regarding the use of public lands or waters;
- g) The activity does not disrupt existing lawful water-dependent uses;
- h) Other than for the exercise of riparian or littoral rights or the reconstruction, replacement, maintenance or repair of lawful structures (see 5) the activity would not be undertaken in a vegetated wetland or natural protective feature;
- i) The activity would 1) not generate or discharge non-point source pollution to coastal waters, or 2) would provide a means of adequately treating non-point sources of pollution using accepted best management practices; and
- j) The activity will not be visually different from surrounding development nor block recognized views to or from the water.

E. A notice of waiver by the Agency together with the finding supporting it shall constitute a determination of consistency pursuant to this Chapter.

F. If the action will substantially hinder the achievement of any policy, the determination of consistency may find that the following four requirements are satisfied and that, as a result, the action is consistent, to the maximum extent practicable, with the policies and purposes of the LWRP:

- (1) No feasible alternatives exist which would permit the action to be taken in a manner which would not substantially hinder the achievement of such policy.
- (2) The action taken will minimize all adverse effects on such policies to the maximum extent practicable.
- (3) The action will advance one or more of the other coastal policies.
- (4) The action will result in an overriding public benefit.

H. The Zoning Board of Appeals' decisions regarding the issuance of variances are not subject to the requirement that a determination of consistency be made prior to undertaking an action.

I. Where an EIS is being prepared or required, the draft EIS must identify applicable SWPP policies standards in Subparagraph I and include a discussion of the effects of the proposed action on such policy standards.

J. Actions to be undertaken within the coastal area shall be evaluated for consistency in accordance with the following summary of LWRP policy standards, which are derived from and further explained and described in the SWPP, a copy of which is on file in the Town Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions must also consult with Section 3 of the SWPP, in making their consistency determination. The action must be consistent with the policies to:

- (1) Foster a pattern of development in the Town of Southampton waterfront area that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a coastal location, and minimizes adverse effects of development (SWPP Policy 1).
- (2) Preserve historic resources of the waterfront area (SWPP Policy 2).
- (3) Protect and, where possible, enhance the visual quality of the natural and man-made scenic resources throughout the waterfront area of the Town (SWPP Policy 3).

- (4) Minimize loss of life, principle structures and natural resources from flooding, erosion, and sea level rise (SWPP Policy 4).
- (5) Protect and improve water quality and supply in the Town of Southampton (SWPP Policy 5).
- (6) Protect and restore the quality, diversity, and function of the ecosystem S(WPP Policy 6).
- (7) Protect and Improve air quality in the Town of Southampton waterfront area (SWPP Policy 7).
- (8) Minimize environmental degradation in the coastal area from solid waste and hazardous substances and wastes (SWPP Policy 8).
- (9) Provide for public access to, and recreational use of the waterways, public lands, and public resources of the waterfront area (SWPP Policy 9).
- (10) Protect water dependent uses and promote siting of new water dependent uses in suitable locations (SWPP Policy 10).
- (11) Promote sustainable use of living marine resources (SWPP Policy 11).
- (12) Protect agricultural lands (SWPP Policy 12).
- (13) Conserve energy resources (SWPP Policy 13).
- (14) All actions must conform to the State Environmental Quality Review Act (SEQRA) regulations (6NYCRR Part 617).
- (15) All actions must adhere to Town protective measures for environmental resource preservation and the Town's neighborhood and community-wide plans.

K. The Administrator of Land Management, and as applicable, each agency shall maintain a copy of the consistency determination in each file for each action made the subject of a consistency determination. Such files shall be made available for public inspection upon request.

V. Management and Coordination of the LWRP

- A. The Town of Southampton Administrator of Land Management shall be responsible for administration the LWRP, and may advise, assist, and make consistency recommendations to other Town agencies in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative and other actions included in the Plan.
- B. The Town Administrator of Land Management shall coordinate with the New York State Department of State regarding consistency review of actions by federal agencies and with State agencies regarding consistency review of their actions.

VI. Enforcement.

No action within the Town of Southampton coastal area that is subject to review under this chapter shall proceed until a written determination has been issued from a Town agency that the action is consistent with the Town's SWPP purposes, policies and standards. In the event that an activity is being performed in violation of this law or any conditions imposed there under, the code enforcement official or any other authorized official of the Town shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect.

VII. Violations.

- A. A person who violates any of the provisions of, or who fails to comply with any condition imposed

by this law shall have committed a violation, punishable by a fine not exceeding five hundred dollars (\$500.00) for a conviction of a first offense and punishable by a fine of one thousand dollars (\$1,000.00) for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.

B. The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty. The Town may also enforce this local law by injunction or other civil proceeding.

VIII. Severability.

The provisions of this local law are severable. If any provision of this local law is found invalid, such finding shall not affect the validity of this local law as a whole or any part or provision hereof other than the provision so found to be invalid.

IX. Effective Date.

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.



SECTION 4: GUIDELINES FOR NOTIFICATION AND REVIEW

NYS DEPT. OF STATE COASTAL MANAGEMENT PROGRAM GUIDELINES FOR NOTIFICATION AND REVIEW OF STATE AGENCY ACTIONS WHERE LOCAL WATERFRONT REVITALIZATION PROGRAMS ARE IN EFFECT

This section is excerpted, from: https://www.dot.ny.gov/divisions/engineering/environmental-analysis/manuals-and-guidance/epm/repository/4_4_6_ResolutionOfConflicts.pdf

I. Purposes of Guidelines

- A. The Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.
- B. The Act also requires that state agencies provide timely notice to the *situs* local government whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.
- C. The Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

II. Definitions

- A. Action means:
 - 1. A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
 - 2. Occurring within the boundaries of an approved LWRP; and
 - 3. Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.
- B. Consistent to the maximum extent practicable means that an action will not substantially hinder the achievement of any of the policies and purposes of an approved LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:
 - 1. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
 - 2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and

3. That will result in an overriding regional or statewide public benefit.
- C. Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

III. NOTIFICATION PROCEDURE

- A. When a state agency is considering an action as described in II. above, the state agency shall notify the affected local government.
- B. Notification of a proposed action by a state agency:
 1. Shall fully describe the nature and location of the action;
 2. Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through an alternative procedure agreed upon by the state agency and local government;
 3. Should be provided to the local official identified in the LWRP of the *situs* local government as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. (The timely filing of a copy of a completed Coastal Assessment Form with the local LWRP official should be considered adequate notification of a proposed action.)
 4. If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the chief executive officer can serve as the state agency's notification to the *situs* local government.

IV. Local Government Review Procedure

- A. Upon receipt of notification from a state agency, the *situs* local government will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local official identified in the LWRP, the state agency should promptly provide the *situs* local government with whatever additional information is available which will assist the *situs* local government to evaluate the proposed action.
- B. If the *situs* local government cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
- C. If the *situs* local government does not notify the state agency in writing of its finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the municipality's approved LWRP.
- D. If the *situs* local government notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in V. below shall apply. The local government shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the local government shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

V. Resolution of Conflicts

- A. The following procedure applies whenever a local government has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP:
1. Upon receipt of notification from a local government that a proposed action conflicts with its approved LWRP, the state agency should contact the local LWRP official to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and local government representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.
 2. If the discussion between the *situs* local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the *situs* local government shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
 3. If the consultation between the *situs* local government and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the *situs* local government and the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.
 4. Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and *situs* local government.
 5. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.
 6. The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.

PROCEDURAL GUIDELINES FOR COORDINATING NYS DEPARTMENT OF STATE (DOS) AND LWRP CONSISTENCY REVIEW OF FEDERAL AGENCY ACTIONS

I DIRECT ACTIONS

- A. After acknowledging the receipt of a consistency determination and supporting documentation from a federal agency, DOS will forward copies of the determination and other descriptive information on the proposed direct action to the program coordinator (of an approved LWRP) and other interested parties.
- B. This notification will indicate the date by which all comments and recommendations must be submitted to DOS and will identify the Department's principal reviewer for the proposed action.

- C. The review period will be about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the municipality has "no opinion" on the consistency of the proposed direct federal agency action with the LWRP policies.
- D. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the municipality to discuss any differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed direct action.
- E. A copy of DOS' "agreement" or "disagreement" letter to the federal agency will be forwarded to the local program coordinator.

II PERMIT AND LICENSE ACTIONS

- A. DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At that time, DOS will forward a copy of the submitted documentation to the local program coordinator and will identify the Department's principal reviewer for the proposed action.
- B. Within thirty (30) days of receiving such information, the local program coordinator will contact the principal reviewer for DOS to discuss: (a) the need to request additional information for review purposes; and (b) any possible problems pertaining to the consistency of a proposed action with the LWRP policies.
- C. When DOS and the local program coordinator agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the local program coordinator upon receipt.
- D. Within thirty (30) days of receiving the requested information or discussing possible problems of a proposed action with the principal reviewer for DOS, whichever is later, the local program coordinator will notify DOS of the reasons why a proposed action may be inconsistent or consistent with the LWRP policies.
- E. After the notification, the local program coordinator will submit the municipality's written comments and recommendations on a proposed permit action to DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed action with the LWRP policies.
- F. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality on a proposed permit action, DOS will contact the local program coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" to the applicant.
- G. A copy of DOS' "concurrence" or "objection" letter to the applicant will be forwarded to the local program coordinator.

III FINANCIAL ASSISTANCE ACTIONS

- A. Upon receiving notification of a proposed federal financial assistance action, DOS will request information on the federal financial assistance action from the applicant for consistency review purposes. As appropriate, DOS will also request the applicant to provide a copy of the

application documentation to the local program coordinator. A copy of this letter will be forwarded to the local program coordinator and will serve as notification that the proposed action may be subject to review.

- B. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the local program coordinator. DOS may, at this time, request the applicant to submit additional information for review purposes.
- C. The review period will conclude thirty (30) days after the date on DOS' letter of acknowledgement or the receipt of requested additional information, whichever is later. The review period may be extended for major federal financial assistance actions.
- D. The local program coordinator must submit the municipality's comments and recommendations on the proposed federal financial assistance action to DOS within twenty days (or other time agreed to by DOS and the local program coordinator) from the start of the review period. If comments and recommendations are not received within this period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed federal financial assistance action with the LWRP policies.
- E. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the local program coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.
- F. A copy of DOS' consistency decision letter to the applicant will be forwarded to the local program coordinator.



SECTION 5: A SUMMARY OF STATE AND FEDERAL ACTIONS LIKELY TO AFFECT PLAN IMPLEMENTA- TION

STATE AND FEDERAL ACTIONS LIKELY TO AFFECT PLAN IMPLEMENTATION

State and federal actions will affect the implementation of the Southampton Water Protection Plan. The active participation of federal and State agencies through their regulatory decisions, direct actions, and funding is likely to be necessary to effectively implement the Program.

The State Waterfront Revitalization of Coastal Areas and Inland Waterways Act requires that a Local Waterfront Revitalization Program (LWRP) identify those elements of the program which can be implemented by the local government unaided (See Section 3) and those that can only be implemented with the aid of other levels of government or other agencies. These identifications shall include those permit, license, certification, or approval programs; grant, loan, subsidy, or other funding assistance programs; facilities construction; and planning programs which may affect the achievement of the LWRP.

Under State law and the US Coastal Zone Management Act, State and federal actions and activities within or affecting the Southampton waterfront area must be “consistent” or “consistent to the maximum extent practicable”¹³⁵ with the enforceable policies and purposes of an LWRP. The Southampton Water Protection Plan is eligible to be submitted for approval as an LWRP. This consistency requirement makes an LWRP a unique, intergovernmental mechanism for setting policies and making decisions at each level of government based on those policies. This not only helps to prevent actions detrimental to achieving the policies, but can also preserve future options from being needlessly foreclosed. In addition, the active participation of State and federal agencies is also likely to be necessary to implement specific provisions of the LWRP.

The first part of this section identifies the actions, activities, and programs of State and federal agencies, which should be undertaken in a manner consistent with an LWRP.

Pursuant to the New York State Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42), the Secretary of State notifies each affected State agency of these identified agency actions and programs that are to be undertaken in a manner consistent with an approved LWRP. The following list of State actions is the list of actions subject to the State consistency requirement. The consistency requirement is effective upon the Secretary of State’s approval of the Southampton Water Protection Plan as an LWRP and the Secretary’s notification of approval to affected State agencies. (Note: The Secretary’s notification of approval would indicate that the list of State agency actions in Section VI, subsection 1.a. is the legislatively required list and replaces any previous notification or identification of actions subject to consistency.)

Similarly, federal agency activities and programs subject to consistency requirements are identified in the manner prescribed by the US Coastal Zone Management Act and its implementing regulations. The list of federal activities and programs included herein is informational only and does not represent or substitute for the required federal identification and notification procedures. The current official list of actions subject to federal consistency requirements may be obtained from the NYS Department of State. Consistency of federal activities with the Southampton Water Protection Plan is effective upon the concurrence of the US Secretary of Commerce that the Southampton Water Protection Plan represents a program change to the New York State Coastal Management Program. Subsequent to the Secretary’s approval of the LWRP, the Secretary submits the LWRP to the Secretary of Commerce for concurrence.

¹³⁵ There is some variation in the standards and procedures for the “consistency” requirement depending on whether the action or activity is a State or federal one; whether it is a permit, direct, or funding activity; and where the action or activity is to take place. These distinctions are described elsewhere in this document and more fully in the relevant State and federal regulations that implement their respective “consistency” requirement.

Whether or not an action or activity is subject to the consistency requirement, the active participation of State and federal agencies is likely to be necessary to implement specific provisions of the Southampton Water Protection Plan. The second part of this section is a more focused and descriptive list of State and Federal agency actions that are necessary to further implement the LWRP. It is recognized that a State or federal agency's ability to undertake such actions is subject to a variety of factors and considerations, and that the consistency provisions referred to above may not apply in some instances.

A. State and Federal Actions and Programs Which Should Be Undertaken in a Manner Consistent With the LWRP

1. State Activities

AGING, OFFICE FOR THE

- 1.00 Funding and/or approval programs for the establishment of new or expanded facilities providing various services for the elderly.

AGRICULTURE AND MARKETS, DEPARTMENT OF

- 1.00 Agricultural Districts Program
- 2.00 Rural Development Program
- 3.00 Conservation Reserve Enhancement Program
- 4.00 Permit and Approval Programs:
 - 4.01 Custom Slaughters/Processor Permit
 - 4.02 Processing Plant License
 - 4.03 Refrigerated Warehouse and/or Locker Plant License
- 5.00 Farmland Protection Grants from the Environmental Protection Fund
- 6.00 Agricultural nonpoint Source Abatement and Control Grant Program and the Agricultural environmental management Program
- 7.00 Farmers Market Grant Program
- 8.00 Community Gardens Capacity Building Grant Program
- 9.00 Management of Invasive Species funding

ALCOHOLIC BEVERAGE CONTROL, DIVISION OF (STATE LIQUOR AUTHORITY)

- 1.00 Permit and Approval Programs:
 - 1.01 Ball Park - Stadium License
 - 1.02 Bottle Club License
 - 1.03 Bottling Permits
 - 1.04 Brewer's Licenses and Permits
 - 1.05 Brewer's Retail Beer License
 - 1.06 Catering Establishment Liquor License
 - 1.07 Cider Producer's and Wholesaler's Licenses
 - 1.08 Club Beer, Liquor, and Wine Licenses
 - 1.09 Distiller's Licenses
 - 1.10 Drug Store, Eating Place, and Grocery Store Beer Licenses
 - 1.11 Farm Winery and Winery Licenses

- 1.12 Hotel Beer, Wine, and Liquor Licenses
- 1.13 Industrial Alcohol Manufacturer's Permits
- 1.14 Liquor Store License
- 1.15 On-Premises Liquor Licenses
- 1.16 Plenary Permit (Miscellaneous-Annual)
- 1.17 Summer Beer and Liquor Licenses
- 1.18 Tavern/Restaurant and Restaurant Wine Licenses
- 1.19 Vessel Beer and Liquor Licenses
- 1.20 Warehouse Permit
- 1.21 Wine Store License
- 1.22 Winter Beer and Liquor Licenses
- 1.23 Wholesale Beer, Wine, and Liquor Licenses

ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OFFICE OF

- 1.00 Facilities, Construction, Rehabilitation, Expansion, or Demolition or the Funding of such Activities.
- 2.00 Permit and Approval Programs:
 - 2.01 Certificate of Approval (Substance Abuse Services Program)
- 3.00 Permit and Approval:
 - 3.01 Letter Approval for Certificate of Need
 - 3.02 Operating Certificate (Alcoholism Facility)
 - 3.03 Operating Certificate (Community Residence)
 - 3.04 Operating Certificate (Outpatient Facility)
 - 3.05 Operating Certificate (Sobering-Up Station)

ARTS, COUNCIL ON THE

- 1.00 Facilities Construction, Rehabilitation, Expansion, or Demolition or the Funding of such Activities
- 2.00 Architecture and Environmental Arts Program

CENTRAL PINE BARRENS COMMISSION

- 1.00 Approval of Development

CHILDREN AND FAMILY SERVICES, OFFICE OF

- 1.00 Facilities Construction, Rehabilitation, Expansion, or Demolition or the Funding of such Activities
- 2.00 Bureau of Housing and Shelter Services/Homeless Housing and Assistance Program
- 3.00 Permit and approval programs:
 - 3.01 Certificate of Incorporation (Adult Residential Care Facilities)
 - 3.02 Operating Certificate (Children's Services)
 - 3.03 Operating Certificate (Enriched Housing Program)
 - 3.04 Operating Certificate (Home for Adults)
 - 3.05 Operating Certificate (Proprietary Home)

- 3.06 Operating Certificate (Public Home)
- 3.07 Operating Certificate (Special Care Home)
- 3.08 Permit to Operate a Day Care Center

CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF

- 1.00 Facilities Construction, Rehabilitation, Expansion, or Demolition or the Funding of such Activities

DORMITORY AUTHORITY OF THE STATE OF NEW YORK

- 1.00 Financing of Higher Education and Health Care Facilities
- 2.00 Planning and Design Services Assistance Program

EDUCATION DEPARTMENT

- 1.00 Facilities Construction, Rehabilitation, Expansion, or Demolition or the Funding of such Activities
- 2.00 Permit and Approval Programs:
 - 2.01 Certification of Incorporation (Regents Charter)
 - 2.02 Private Business School Registration
 - 2.03 Private School License
 - 2.04 Registered Manufacturer of Drugs and/or Devices
 - 2.05 Registered Pharmacy Certificate
 - 2.06 Registered Wholesale of Drugs and/or Devices
 - 2.07 Registered Wholesaler-Re-packer of Drugs and/or Devices
 - 2.08 Storekeeper's Certificate
- 3.00 Administration of Article 5, Section 233 of the Education Law regarding the removal of archaeological and paleontological objects under the waters of the State.

EMERGENCY MANAGEMENT, OFFICE OF

- Hazard Identification
- Loss Prevention, Planning, Training, Operational Response to Emergencies,
- Technical Support, and Disaster Recovery Assistance.

EMPIRE STATE DEVELOPMENT (updated services are listed here

<http://www.esd.ny.gov/AboutUs/Services.html>)

- 1.00 Preparation or revision of Statewide or specific plans to address State economic development needs.
- 2.00 Allocation of the State tax-free bonding reserve.

ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

- 1.00 Issuance of revenue bonds to finance pollution abatement modifications in power-generation facilities and various energy projects.
- 2.00 New Construction Program – provide assistance to incorporate energy-efficiency measures into the design, construction and operation of new and substantially renovated buildings.
- 3.00 Existing Facilities Program – offers incentives for a variety of energy projects

ENVIRONMENTAL CONSERVATION, DEPARTMENT OF

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of lands under the jurisdiction of the Department.
- 2.00 Classification of Waters Program; classification of land areas under the Clean Air Act.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 4.00 Financial assistance/grant programs:
 - 4.01 Capital projects for limiting air pollution
 - 4.02 Cleanup of toxic waste dumps
 - 4.03 Flood control, beach erosion and other water resource projects
 - 4.04 Operating aid to municipal wastewater treatment facilities
 - 4.05 Resource recovery and solid waste management capital projects
 - 4.06 Wastewater treatment facilities
 - 4.07 State Wildlife Grants
- 5.00 Planning, construction, rehabilitation, expansion, demolition, or the funding of such activities and/or projects funded through the Environmental Protection Fund (Environmental Protection Act of 1993) or Clean Water/Clean Air Bond Act of 1996.
- 7.00 Implementation of the Environmental Quality Bond Act of 1972, including:
 - (a) Water Quality Improvement Projects
 - (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects and Waterways Projects.
- 8.00 Marine Finfish and Shellfish Programs.
- 10.00 Permit and approval programs:
 - Air Resources
 - 10.01 Certificate of Approval for Air Pollution Episode Action Plan
 - 10.02 Certificate of Compliance for Tax Relief - Air Pollution Control Facility
 - 10.03 Certificate to Operate: Stationary Combustion Installation; Incinerator; Process, Exhaust or Ventilation System
 - 10.04 Permit for Burial of Radioactive Material
 - 10.05 Permit for Discharge of Radioactive Material to Sanitary Sewer
 - 10.06 Permit for Restricted Burning
 - 10.07 Permit to Construct: a Stationary Combustion Installation; Incinerator; Indirect Source of Air Contamination; Process, Exhaust or Ventilation System
 - Construction Management
 - 10.08 Approval of Plans and Specifications for Wastewater Treatment Facilities
 - Fish and Wildlife
 - 10.09 Certificate to Possess and Sell Hatchery Trout in New York State
 - 10.10 Commercial Inland Fisheries Licenses
 - 10.11 Fishing Preserve License
 - 10.12 Fur Breeder's License
 - 10.13 Game Dealer's License

- 10.14 Licenses to Breed Domestic Game Animals
- 10.15 License to Possess and Sell Live Game
- 10.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
- 10.17 Permit to Raise and Sell Trout
- 10.18 Private Bass Hatchery Permit
- 10.19 Shooting Preserve Licenses
- 10.20 Taxidermy License
- 10.21 Permit - Article 15, (Protection of Water) - Dredge or Deposit Material in a Waterway
- 10.22 Permit - Article 15, (Protection of Water) - Stream Bed or Bank Disturbances, Dock Construction
- 10.23 Permit - Article 24, (Freshwater Wetlands)

Hazardous Substances

- 10.24 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects
- 10.25 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation
- 10.26 Permit to Use Chemicals for the Control or Extermination of Undesirable Fish

Lands and Forest

- 10.27 Certificate of Environmental Safety (Liquid Natural Gas and Liquid Petroleum Gas)
- 10.28 Floating Object Permit
- 10.29 Marine Regatta Permit
- 10.30 Navigation Aid Permit

Marine Resources

- 10.31 Digger's Permit (Shellfish)
- 10.32 License of Menhaden Fishing Vessel
- 10.33 License for Non-Resident Food Fishing Vessel
- 10.34 Non-Resident Lobster Permit
- 10.35 Marine Hatchery and/or Off-Bottom Culture Shellfish Permits
- 10.36 Permits to Take Blue-Claw Crabs
- 10.37 Permit to Use Pond or Trap Net
- 10.38 Resident Commercial Lobster Permit
- 10.39 Shellfish Bed Permit
- 10.40 Shellfish Shipper's Permits
- 10.41 Special Permit to Take Surf Clams from Waters other than the Atlantic Ocean
- 10.42 Permit - Article 25, (Tidal Wetlands)

Mineral Resources

- 10.43 Mining Permit
- 10.44 Permit to Plug and Abandon (a non-commercial, oil, gas or solution mining well)
- 10.45 Underground Storage Permit (Gas)
- 10.46 Well Drilling Permit (Oil, Gas, and Solution Salt Mining)

Solid Wastes

- 10.47 Permit to Construct and/or Operate a Solid Waste Management Facility
- 10.48 Septic Tank Cleaner and Industrial Waste Collector Permit

Water Resources

- 10.49 Approval of Plans for Wastewater Disposal Systems
- 10.50 Certificate of Approval of Realty Subdivision Plans
- 10.51 Certificate of Compliance (Industrial Wastewater Treatment Facility)
- 10.52 Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan
- 10.53 Permit - Article 36, (Construction in Flood Hazard Areas)
- 10.54 Permit for Activities for Development in Coastal Erosion Hazards Areas
- 10.55 State Pollutant Discharge Elimination System (SPDES) Permit
- 10.56 Approval - Drainage Improvement District
- 10.57 Approval - Water (Diversion for) Power
- 10.58 Approval of Well System and Permit to Operate
- 10.59 Permit - Article 15, (Protection of Water) – Dam
- 10.60 Permit - Article 15, Title 15 (Water Supply)
- 10.61 River Improvement District Approvals
- 10.62 River Regulatory District Approvals
- 10.63 Well Drilling Certificate of Registration
- 10.64 401 Water Quality Certification
- 11.00 Preparation and revision of Air Pollution State Implementation Plan.
- 12.00 Preparation and revision of Continuous Executive Program Plan.
- 13.00 Preparation and revision of Statewide Environmental Plan.
- 14.00 Protection of Natural and Man-made Beauty Program.
- 15.00 Urban Fisheries Program.
- 16.00 Urban Forestry Program.
- 17.00 Urban Wildlife Program.

ENVIRONMENTAL FACILITIES CORPORATION

- 1.00 Financing program for pollution control facilities for municipalities, industrial firms and small businesses.
- 2.00 Clean Vessel Assistance Program

FINANCIAL SERVICES, DEPARTMENT OF (the services listed below need to be updated)

- 1.00 Permit and approval programs:
 - 1.01 Authorization Certificate (Bank Branch)
 - 1.02 Authorization Certificate (Bank Change of Location)
 - 1.03 Authorization Certificate (Bank Charter)
 - 1.04 Authorization Certificate (Credit Union Change of Location)
 - 1.05 Authorization Certificate (Credit Union Charter)

- 1.06 Authorization Certificate (Credit Union Station)
- 1.07 Authorization Certificate (Foreign Banking Corporation Change of Location)
- 1.08 Authorization Certificate (Foreign Banking Corporation Public Accommodations Office)
- 1.09 Authorization Certificate (Investment Company Branch)
- 1.10 Authorization Certificate (Investment Company Change of Location)
- 1.11 Authorization Certificate (Investment Company Charter)
- 1.12 Authorization Certificate (Licensed Lender Change of Location)
- 1.13 Authorization Certificate (Mutual Trust Company Charter)
- 1.14 Authorization Certificate (Private Banker Charter)
- 1.15 Authorization Certificate (Public Accommodation Office - Banks)
- 1.16 Authorization Certificate (Safe Deposit Company Branch)
- 1.17 Authorization Certificate (Safe Deposit Company Change of Location)
- 1.18 Authorization Certificate (Safe Deposit Company Charter)
- 1.19 Authorization Certificate (Savings Bank Charter)
- 1.20 Authorization Certificate (Savings Bank De Novo Branch Office)
- 1.21 Authorization Certificate (Savings Bank Public Accommodations Office)
- 1.22 Authorization Certificate (Savings and Loan Association Branch)
- 1.23 Authorization Certificate (Savings and Loan Association Change of Location)
- 1.24 Authorization Certificate (Savings and Loan Association Charter)
- 1.25 Authorization Certificate (Subsidiary Trust Company Charter)
- 1.26 Authorization Certificate (Trust Company Branch)
- 1.27 Authorization Certificate (Trust Company-Change of Location)
- 1.28 Authorization Certificate (Trust Company Charter)
- 1.29 Authorization Certificate (Trust Company Public Accommodations Office)
- 1.30 Authorization to Establish a Life Insurance Agency
- 1.31 License as a Licensed Lender
- 1.32 License for a Foreign Banking Corporation Branch

GENERAL SERVICES, OFFICE OF

- 1.00 Administration of the Public Lands Law for acquisition and disposition of lands, grants of land, grants of easement and issuance of licenses for land underwater, including for residential docks over 5,000 square feet and all commercial docks, issuance of licenses for removal of materials from lands under water, and oil and gas leases for exploration and development.
- 2.00 Administration of Article 4-B, Public Buildings Law, in regard to the protection and management of State historic and cultural properties and State uses of buildings of historic, architectural or cultural significance.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition.
- 4.00 Administration of Article 5, Section 233, sub. 5 of the Education Law on removal of archaeological and paleontological objects under the waters of the State.

- 5.00 Administration of Article 3, Section 32 of the Navigation Law regarding location of structures in or on navigable waters.
- 6.00 Section 334 of the State Real Estate Law regarding subdivision of waterfront properties on navigable waters to include the location of riparian lines.

HEALTH, DEPARTMENT OF

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Approval of Completed Works for Public Water Supply Improvements
 - 2.02 Approval of Plans for Public Water Supply Improvements.
 - 2.03 Certificate of Need (Health Related Facility - except Hospitals)
 - 2.04 Certificate of Need (Hospitals)
 - 2.05 Operating Certificate (Diagnostic and Treatment Center)
 - 2.06 Operating Certificate (Health Related Facility)
 - 2.07 Operating Certificate (Hospice)
 - 2.08 Operating Certificate (Hospital)
 - 2.09 Operating Certificate (Nursing Home)
 - 2.10 Permit to Operate a Children's Overnight or Day Camp
 - 2.11 Permit to Operate a Migrant Labor Camp
 - 2.12 Permit to Operate as a Retail Frozen Dessert Manufacturer
 - 2.13 Permit to Operate a Service Food Establishment
 - 2.14 Permit to Operate a Temporary Residence/Mass Gathering
 - 2.15 Permit to Operate or Maintain a Swimming Pool or Public Bathing Beach
 - 2.16 Permit to Operate Sanitary Facilities for Realty Subdivisions
 - 2.17 Shared Health Facility Registration Certificate

HOMES AND COMMUNITY RENEWAL, DIVISION OF (and its subsidiaries and affiliates)

- 1.00 Facilities construction, rehabilitation, expansion, or demolition.
- 2.00 Financial assistance/grant programs:
 - 2.01 Federal Housing Assistance Payments Programs (Section 8 Programs)
 - 2.02 Housing Development Fund Programs
 - 2.03 Neighborhood Preservation Companies Program
 - 2.04 Public Housing Programs
 - 2.05 Rural Initiatives Grant Program
 - 2.06 Rural Preservation Companies Program
 - 2.07 Rural Rental Assistance Program
 - 2.08 Special Needs Demonstration Projects
 - 2.09 Urban Initiatives Grant Program
 - 2.10 Urban Renewal Programs
- 3.00 Preparation and implementation of plans to address housing and community renewal needs.

- 4.00 Funding programs for the construction, rehabilitation, or expansion of facilities.
- 5.00 Affordable Housing Corporation

MENTAL HEALTH, OFFICE OF

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
 - 2.01 Operating Certificate (Community Residence)
 - 2.02 Operating Certificate (Family Care Homes)
 - 2.03 Operating Certificate (Inpatient Facility)
 - 2.04 Operating Certificate (Outpatient Facility)

MILITARY AND NAVAL AFFAIRS, DIVISION OF

- 1.00 Preparation and implementation of the State Disaster Preparedness Plan.

NATURAL HERITAGE TRUST

- 1.00 Funding program for natural heritage institutions.

PARKS, RECREATION AND HISTORIC PRESERVATION, OFFICE OF (including Long Island State Park Commissions)

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Office.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 3.00 Funding program for recreational boating, safety and enforcement.
- 4.00 Funding program for State and local historic preservation projects.
- 5.00 Land and Water Conservation Fund programs.
- 6.00 Nomination of properties to the Federal and/or State Register of Historic Places.
- 7.00 Permit and approval programs:
 - 7.01 Floating Objects Permit
 - 7.02 Marine Regatta Permit
 - 7.03 Navigation Aide Permit
 - 7.04 Posting of Signs Outside State Parks
- 8.00 Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan and the Statewide Comprehensive Historic Preservation Plan and other plans for public access, recreation, historic preservation or related purposes.
- 9.00 Recreation services program.
- 10.00 Urban Cultural Parks Program.
- 11.00 Planning, construction, rehabilitation, expansion, demolition, or the funding of such activities and/or projects funded through the Environmental Protection Fund (Environmental Protection Act of 1993) or Clean Water/Clean Air Bond Act of 1996.

PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR

- 1.00 Facilities construction, rehabilitation, expansion, or demolition, or the funding of such activities.
- 2.00 Permit and approval programs:

- 2.01 Establishment and Construction Prior Approval
- 2.02 Operating Certificate Community Residence
- 2.03 Outpatient Facility Operating Certificate

PORT AUTHORITY OF NEW YORK AND NEW JERSEY (regional agency)

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Commission.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 3.00 Waterfront development project activities.

NEW YORK STATE POWER AUTHORITY

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition.

PUBLIC SERVICE COMMISSION

SCIENCE AND TECHNOLOGY FOUNDATION

- 1.00 Corporation for Innovation Development Program.
- 2.00 Center for Advanced Technology Program.

STATE, DEPARTMENT OF

- 2.00 Coastal Management Program.
 - 2.10 Planning, construction, rehabilitation, expansion, demolition, or the funding of such activities and/or projects funded through the Environmental Protection Fund (Environmental Protection Act of 1993) or Clean Water/Clean Air Bond Act of 1996.
 - 2.11 Review of federal activities
 - 2.12 Ocean Plan
 - 2.13 Brownfield Planning
- 3.00 Community Services Block Grant Program.
- 4.00 Permit and approval programs:
 - 4.01 Billiard Room License
 - 4.02 Cemetery Operator
 - 4.03 Uniform Fire Prevention and Building Code

STATE UNIVERSITY CONSTRUCTION FUND

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

STATE UNIVERSITY OF NEW YORK

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the University.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

TRANSPORTATION, DEPARTMENT OF

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Department.
- 2.00 Construction, rehabilitation, expansion, or demolition of facilities, including, but not limited to:
 - (a) Highways and parkways
 - (b) Bridges on the State highways system
 - (c) Highway and parkway maintenance facilities
 - (d) Rail facilities
- 3.00 Financial assistance/grant programs:
 - 3.01 Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
 - 3.02 Funding programs for development of the ports of Albany, Buffalo, Oswego, Ogdensburg, and New York
 - 3.03 Funding programs for rehabilitation and replacement of municipal bridges
 - 3.04 Subsidies program for marginal branch lines abandoned by Conrail
 - 3.05 Subsidies program for passenger rail service
 - 3.06 Financial assistance to local governments for transportation enhancement activities.
- 4.00 Permits and approval programs:
 - 4.01 Approval of applications for airport improvements (construction projects)
 - 4.02 Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)
 - 4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities
 - 4.04 Approval of municipal or regional transportation authority applications for funds for design and construction of rapid transit facilities
 - 4.05 Certificate of Convenience and Necessity to Operate a Railroad
 - 4.06 Highway Work Permits
 - 4.07 License to Operate Major Petroleum Facilities
 - 4.08 Outdoor Advertising Permit (for off-premises advertising signs adjacent to interstate and primary highway)
 - 4.09 Real Property Division Permit for Use of State-Owned Property
- 5.00 Preparation or revision of the Statewide Master Plan for Transportation and sub-area or special plans and studies related to the transportation needs of the State.
- 6.00 Water Operation and Maintenance Program--Activities related to the containment of petroleum spills and development of an emergency oil-spill control network.

METROPOLITAN TRANSPORTATION AUTHORITY (regional agency)

- 1.00 Facilities construction, rehabilitation, expansion, or demolition, or the funding of such activities.

- 2.00 Increases in special fares for transportation services to public water-related recreation resources.

YOUTH, DIVISION OF

- 1.0 Facilities construction, rehabilitation, expansion, or demolition or the funding or approval of such activities.

2. Federal Activities Affecting Land and Water Uses and Natural Resources in the Coastal Zone of New York

a) Activities Undertaken Directly by or on Behalf of Federal Agencies

The following activities, undertaken directly by or on behalf of the identified federal agencies, are subject to the consistency provision of the Coastal Zone Management Act, its implementing regulations in 15 CFR Part 930, Subpart C, and the New York Coastal Management Program.

DEPARTMENT OF COMMERCE

National Marine Fisheries Services

- 1.00 Fisheries Management Plans

DEPARTMENT OF DEFENSE

Army Corps of Engineers

- 1.00 Proposed authorizations for dredging, channel improvements, break-waters, other navigational works, or erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities, and other projects with potential to impact coastal lands and waters.
- 2.00 Land acquisition for spoil disposal or other purposes.
- 3.00 Selection of open water disposal sites.

Army, Navy and Air Force

- 4.00 Location, design, and acquisition of new or expanded defense installations (active or reserve status, including associated housing, transportation or other facilities).
- 5.00 Plans, procedures and facilities for landing or storage use zones.
- 6.00 Establishment of impact, compatibility or restricted use zones.

DEPARTMENT OF ENERGY

- 1.00 Prohibition orders.

GENERAL SERVICES ADMINISTRATION

- 1.00 Acquisition, location and design of proposed Federal Government property or buildings, whether leased or owned by the Federal Government.
- 2.00 Disposition of federal surplus land and structures

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

- 1.00 Location and design, construction or enlargement of Coast Guard stations, bases, and lighthouses.
- 2.00 Location, placement or removal of navigation devices which are not part of the routine operations under the Aids to Navigation Program (ATON).

- 3.00 Expansion, abandonment, designation or anchorages, lightening areas or shipping lanes and ice management practices and activities.
- 4.00 Establishment of security zones

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

- 1.00 Management of National Wildlife refuges and proposed acquisitions.

Bureau of Ocean Energy Management Regulation and Enforcement

- 2.00 OCS lease sale activities including tract selection, lease sale stipulations, etc.
- 3.00 Leases for renewable energy

National Park Service

- 4.00 National Park and Seashore management and proposed acquisitions.

DEPARTMENT OF TRANSPORTATION

Amtrak

- 1.00 Expansions, curtailments, new construction, upgrading or abandonments or railroad facilities or services, in or affecting the State's coastal area.

Federal Aviation Administration

- 2.00 Location and design, construction, maintenance, and demolition of Federal aids to air navigation.

Federal Highway Administration

- 3.00 Highway construction.

b) Federal Licenses, Permits and Other Forms of Approval or Authorization

The following activities, requiring permits, or other forms of authorization or approval from federal agencies, are subject to the consistency provisions of the Coastal Zone Management Act, its implementing regulations in 15 CFR Part 930, Subpart D, and the New York Coastal Management Program.

DEPARTMENT OF DEFENSE

Army Corps of Engineers

- 1.00 Construction of dams, dikes or ditches across navigable waters, or obstruction or alteration of navigable waters required under Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403).
- 2.00 Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405).
- 3.00 Occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the U.S. pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408).
- 4.00 Approval of plans for improvements made at private expense under Corps supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565).
- 5.00 Disposal of dredged spoils into the waters of the U.S., pursuant to the Clean Water Act, Section 404, (33 U.S.C. 1344).
- 6.00 All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

- 7.00 Construction of artificial islands and fixed structures in Long Island Sound pursuant to Section 4(f) of the River and Harbors Act of 1912 (33 U.S.C.).

DEPARTMENT OF ENERGY

Economic Regulatory Commission

- 1.00 Regulation of gas pipelines, and licensing of import or export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act of 1974.
- 2.00 Exemptions from prohibition orders.

Federal Energy Regulatory Commission

- 3.00 Licenses for non-Federal hydroelectric projects and primary transmission lines under Sections 3(11), 4(e) and 15 of the Federal Power Act (16 U.S.C. 796(11), 797(11) and 808).
- 4.00 Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (15 U.S.C. 824a(b)).
- 5.00 Certificates for the construction and operation of interstate natural gas pipeline facilities, including both pipelines and terminal facilities under Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)).
- 6.00 Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717f(b)).

ENVIRONMENTAL PROTECTION AGENCY

- 1.00 NPDES permits and other permits for Federal installations, discharges in contiguous zones and ocean waters, sludge runoff and aquaculture permits pursuant to Section 401, 402, 403, 405, and 318 of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1341, 1342, 1343, and 1328).
- 2.00 Permits pursuant to the Resources Recovery and Conservation Act of 1976.
- 3.00 Permits pursuant to the underground injection control program under Section 1424 of the Safe Water Drinking Water Act (42 U.S.C. 300h-c).
- 4.00 Permits pursuant to the Clean Air Act of 1976 (42 U.S.C. 1857).

DEPARTMENT OF INTERIOR

Fish and Wildlife Services

- 1.00 Endangered species permits pursuant to the Endangered Species Act (16 U.S.C. 153(a)).

Bureau of Ocean Energy Management Regulation and Enforcement

- 2.00 Permits to drill, rights of use and easements for construction and maintenance of pipelines, gathering and flow lines and associated structures pursuant to 43 U.S.C. 1334, exploration and development plans, and any other permits or authorizations granted for activities described in detail in OCS exploration, development, and production plans.
- 3.00 Permits required for pipelines crossing federal lands, including OCS lands, and associated activities pursuant to the OCS Lands Act (43 U.S.C. 1334) and 43 U.S.C. 931 (c) and 20 U.S.C. 185.

NUCLEAR REGULATORY COMMISSION

- 1.00 Licensing and certification of the siting, construction and operation of nuclear power plants pursuant to Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974 and the National Environmental Policy Act of 1969.

SURFACE TRANSPORTATION BOARD (former Interstate Commerce Commission)

- 1.00 Authority to abandon railway lines (to the extent that the abandonment involves removal of trackage and disposition of right-of-way); authority to construct railroads; authority to construct coal slurry pipelines.

DEPARTMENT OF TRANSPORTATION

- 1.00 Construction or modification of bridges, causeways or pipelines over navigable waters pursuant to 49 USC 1455
- 2.00 Permits for Deepwater Ports pursuant to the Deepwater Ports Act of 1974 (33USC 1501)

Federal Aviation Administration

- 3.00 Permits and licenses for construction, operation or alteration of airports.

c) Federal Financial Assistance To State and Local Governments

The following activities, involving financial assistance from federal agencies to State and local governments, are subject to the consistency provisions of the Coastal Zone Management Act, its implementing regulations in 15 CFR Part 930, Subpart F, and the New York State Coastal Management Program. When these activities involve financial assistance for entities other than State and local government, the activities are subject to the consistency provisions of 15 CFR Part 930, Subpart C.

DEPARTMENT OF AGRICULTURE

- 10.068 Rural Clean Water Program
- 10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans
- 10.410 Low to Moderate Income Housing Loans
- 10.411 Rural Housing Site Loans
- 10.413 Recreation Facility Loans
- 10.414 Resource Conservation and Development Loans
- 10.415 Rural Renting Housing Loans
- 10.416 Soil and Water Loans
- 10.418 Water and Waste Disposal Systems for Rural Communities
- 10.419 Watershed Protection and Flood Prevention Loans
- 10.422 Business and Industrial Loans
- 10.423 Community Facilities Loans
- 10.424 Industrial Development Grants
- 10.426 Area Development Assistance Planning Grants
- 10.429 Above Moderate Income Housing Loans
- 10.430 Energy Impacted Area Development Assistance Program
- 10.901 Resource Conservation and Development
- 10.902 Soil and Water Conservation
- 10.904 Watershed Protection and Flood Prevention
- 10.906 River Basin Surveys and Investigations

DEPARTMENT OF COMMERCE

- 11.300 Economic Development - Grants and Loans for Public Works and Development Facilities

- 11.301 Economic Development - Business Development Assistance
- 11.302 Economic Development - Support for Planning Organizations
- 11.304 Economic Development - State and Local Economic Development Planning
- 11.305 Economic Development - State and Local Economic Development Planning
- 11.307 Special Economic Development and Adjustment Assistance Program - Long Term Economic Deterioration
- 11.308 Grants to States for Supplemental and Basic Funding of Titles I, II, III, IV, and V Activities
- 11.405 Anadromous and Great Lakes Fisheries Conservation
- 11.407 Commercial Fisheries Research and Development
- 11.417 Sea Grant Support
- 11.427 Fisheries Development and Utilization - Research and Demonstration Grants and Cooperative Agreements Program
- 11.501 Development and Promotion of Ports and Inter-modal Transportation
- 11.509 Development and Promotion of Domestic Waterborne Transport Systems

COMMUNITY SERVICES ADMINISTRATION

- 49.002 Community Action
- 49.011 Community Economic Development
- 49.013 State Economic Opportunity Offices
- 49.017 Rural Development Loan Fund
- 49.018 Housing and Community Development (Rural Housing)

ENVIRONMENTAL PROTECTION AGENCY

- 66.001 Air Pollution Control Program Grants
- 66.418 Construction Grants for Wastewater Treatment Works
- 66.426 Water Pollution Control - State and Areawide Water Quality Management Planning Agency
- 66.451 Solid and Hazardous Waste Management Program Support Grants
- 66.452 Solid Waste Management Demonstration Grants
- 66.600 Environmental Protection Consolidated Grants Program Support Comprehensive Environmental Response, Compensation and Liability (Super Fund)

GENERAL SERVICES ADMINISTRATION

- 39.002 Disposal of Federal Surplus Real Property

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- 14.112 Mortgage Insurance - Construction or Substantial Rehabilitation of Condominium Projects
- 14.115 Mortgage Insurance - Development of Sales Type Cooperative Projects
- 14.117 Mortgage Insurance - Homes
- 14.124 Mortgage Insurance - Investor Sponsored Cooperative Housing
- 14.125 Mortgage Insurance - Land Development and New Communities
- 14.126 Mortgage Insurance - Management Type Cooperative Projects
- 14.127 Mortgage Insurance - Mobile Home Parks

- 14.218 Community Development Block Grants/Entitlement Grants
- 14.219 Community Development Block Grants/Small Cities Program
- 14.221 Urban Development Action Grants
- 14.223 Indian Community Development Block Grant Program

DEPARTMENT OF INTERIOR

- 15.400 Outdoor Recreation - Acquisition, Development and Planning
- 15.402 Outdoor Recreation - Technical Assistance
- 15.403 Disposal of Federal Surplus Real Property for Parks, Recreation, and Historic Monuments
- 15.411 Historic Preservation Grants-in-Aid
- 15.417 Urban Park and Recreation Recovery Program
- 15.600 Anadromous Fish Conservation
- 15.605 Fish Restoration
- 15.611 Wildlife Restoration
- 15.613 Marine Mammal Grant Program
- 15.802 Minerals Discovery Loan Program
- 15.950 National Water Research and Development Program
- 15.951 Water Resources Research and Technology - Assistance to State Institutes
- 15.952 Water Research and Technology - Matching Funds to State Institutes

SMALL BUSINESS ADMINISTRATION

- 59.012 Small Business Loans
- 59.013 State and Local Development Company Loans
- 59.024 Water Pollution Control Loans
- 59.025 Air Pollution Control Loans
- 59.031 Small Business Pollution Control Financing Guarantee

DEPARTMENT OF TRANSPORTATION

- 20.102 Airport Development Aid Program
- 20.103 Airport Planning Grant Program
- 20.205 Highway Research, Planning, and Construction
- 20.309 Railroad Rehabilitation and Improvement - Guarantee of Obligations
- 20.310 Railroad Rehabilitation and Improvement - Redeemable Preference Shares
- 20.506 Urban Mass Transportation Demonstration Grants
- 20.509 Public Transportation for Rural and Small Urban Areas

Note: Numbers refer to the Catalog of Federal Domestic Assistance Programs, 1980 and its two subsequent updates.

B. State and Federal Actions and Programs Necessary to Further the LWRP (The Town may wish to identify additional actions necessary)

1. State Actions and Programs Necessary to Further the LWRP

COUNCIL ON THE ARTS

1. Assistance from the Architecture and Environmental Arts program.

EMPIRE STATE DEVELOPMENT (ESD)

1. Provision of funding and other support of appropriate tourism to the East End.
2. Support of the commercial fishing industry.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

1. Funding support as available for necessary environmental infrastructure.
2. Communication and consultation regarding regulatory decisions affecting the Town and the Town Trustees.
3. Facilitate the permitting of wetland restoration projects.
4. Classify waters consistent with continuation of recreational boating mooring areas.
5. Development of TMDLs for embayments within Southampton.

OFFICE OF GENERAL SERVICES

1. Prior to any development occurring in the water or on the immediate waterfront, OGS should be contacted for a determination of the State's interest in underwater, or formerly underwater, lands and for authorization to use and occupy these lands.
2. Avoid leasing underwater lands for private purposes.

DEPARTMENT OF HEALTH

1. Support for alternatives to septic systems and removal of nitrogen.

OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

1. Planning, development, construction, major renovation or expansion of recreational facilities or the provision of funding for such facilities.
2. Provision of funding for State and local activities from the Land and Water Conservation Fund.
3. Planning, development, implementation or the provision of funding for recreation services programs.
4. Certification of properties within districts listed on the National Register of Historic Places.
5. Provision of funding for State and local historic preservation activities.

DEPARTMENT OF STATE

1. Provision of funding for the implementation of an approved LWRP.
2. Consultation with Town staff on all consistency decisions affecting the Town.

STATE UNIVERSITY OF NEW YORK

1. Development of Southampton College property pursuant to development plans consistent with Town zoning and in consultation with the Town.

DEPARTMENT OF TRANSPORTATION

1. Assistance for street repairs through the Consolidated Highway Improvements Program.

2. Management of stormwater on State highways to meet water quality standards and any TMDL or equivalent standards established by the Town.

2. Federal Actions and Programs Necessary to Further the LWRP

DEPARTMENT OF DEFENSE

Army Corps of Engineers.

1. Maintenance of the Shinnecock Inlet

ECONOMIC DEVELOPMENT ADMINISTRATION

1. Assistance under the Public Works and Economic Development Act for street improvements.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

1. Maintenance/rehabilitation of facilities.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

1. Funding under the Community Development Block Grant Program for improvements in the waterfront.

DEPARTMENT OF THE INTERIOR

National Park Service

1. Provision of funding under the Land and Water Conservation Fund Program.
2. Review of federal actions within the National Register Districts pursuant to NEPA.

DEPARTMENT OF THE TREASURY

1. Continuation of Incentives for Qualified Building Rehabilitation.
2. Provision of appropriate tax-exempt status for non-profit agencies active in the coastal area.

